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

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

2 CFR Part 1800

RIN 2700–AE49

[Document Number NASA–19–028: Docket Number NASA–2019–0003]

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule removes Certifications, Assurances, and Representations and Terms and Conditions from NASA's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards regulations and all references to both because this information is already available in NASA's Grant and Cooperative Agreements Manual (GCAM). This direct final rule also removes Deviations for terms, conditions, and forms and makes minor administrative changes.

DATES: This direct final rule is effective July 8, 2019. Comments due on or before June 10, 2019. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Antanese Crank (202) 358–4683.

SUPPLEMENTARY INFORMATION:

I. Direct Final Rule

NASA has determined that this rulemaking meets the criteria for a direct final rule because it makes non-substantive changes by removing Appendix A, Certifications, Assurances, and Representations and Appendix B, Terms and Conditions, as well as references to both because this information is already available in NASA's GCAM accessible at *https://prod.nais.nasa.gov/pub/pub_library/srba/documents/Grant_and_CooperativeAgreementManual.doc.* However, if the Agency receives a significant adverse comment, it will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

II. Background

In December 2014, the Office of Management and Budget (OMB), together with NASA and the other Federal awarding agencies, issued a joint interim rule to implement new guidance at 2 Code of Federal Regulations (CFR) 200 Subtitle B, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). OMB used the rulemaking procedure when promulgating this common rule on grants and cooperative agreements and required each agency to adopt OMB's common rule on grants and cooperative agreements. Although statutorily unnecessary, in 2015, NASA used rulemaking procedures to incorporate portions of the Uniform Guidance into its Federal Regulations at 2 CFR 1800 because NASA's Grants Management function was affiliated with Procurement Operations at the time. A review of all 32 Federal Grant awarding agencies and how they handled the issuance of the Uniform Guidance indicated that NASA was the only Agency to include Terms and Conditions in its Federal Regulations. The changes listed below will reduce burdens by removing unnecessary requirements in Federal Regulations, as well as allow NASA to streamline its practices to comport with other Federal grant awarding agencies. NASA is issuing a direct final rule to:

1. Remove Appendix A, Certifications, Assurances, and Representations.
2. Remove Appendix B, Terms and Conditions.
3. Remove references to the certification and representations from section 1800.208.
4. Remove references to the terms and conditions from section 1800.210.
5. Remove Deviations for terms, conditions, and forms and removes and reserves section 1800.6.
6. Add references to NASA's GCAM.

III. Statutory Authority

51 U.S.C. 20113(e), Public Law 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and 2 CFR part 200.

IV. Regulatory Analysis

Executive Orders 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866.

Regulatory Flexibility Act

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Fees assessed by the Administration are nominal. Further, the ''small entities'' that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

Paperwork Reduction Act Statement

This rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not

significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (as amended), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

List of Subjects in 2 CFR Part 1800

Grant programs, Grants administration.

For reasons set forth in the preamble, NASA amends 2 CFR part 1800 as follows:

PART 1800—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 1. The authority citation for part 1800 continues to read as follows:

Authority: 51 U.S.C. 20113(e), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and 2 CFR part 200.

§ 1800.3 [Amended]

■ 2. Amend § 1800.3, paragraph (d)(2) by removing the words ''Procurement, Program Operations'' and add in their place ''the Chief Financial Officer, Policy''.

§ 1800.5 [Amended]

■ 3. Amend § 1800.5 by adding the acronym ''(GCAM)'' after the words ''Grants and Cooperative Agreements Manual''.

§ 1800.6 [Removed and Reserved]

■ 4. Remove and reserve § 1800.6.

Subpart A—Acronyms and Definitions

■ 5. Amend § 1800.10 by adding in alphabetical order an entry for ''GCAM Grants and Cooperative Agreements Manual'' to read as follows:

§ 1800.10 Acronyms.

* * * * *

GCAM Grants and Cooperative Agreements Manual

* * * * *

■ 6. Amend § 1800.11, in paragraph (a) by revising the definition of ''Minority Institutions (MIs)'' to read as follows:

§ 1800.11 Definitions

(a)* * *

Minority Institutions (MIs) means an institution of higher education whose enrollment of a single minority or a combination of minorities (minority meaning American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group under-represented in science and engineering.) exceeds 50 percent of the total enrollment, as defined by section 365(3) of the Higher Education Act (HEA) (20 U.S.C. 1067k(3)).

* * * * *

Subpart B—Pre-Federal Award Requirements and Contents of Federal Awards

■ 7. Revise § 1800.208 to read as follows:

§ 1800.208 Certifications and representations.

The certifications and representations for NASA may be found in Exhibit C of the GCAM. *https://prod.nais.nasa.gov/pub/pub_library/srba.*

■ 8. Revise § 1800.210 to read as follows:

§ 1800.210 Information contained in a Federal award.

NASA waives the requirement for the inclusion of indirect cost rates on any notice of Federal award for commercial firms with no cost sharing requirement. The terms and conditions for NASA may be found in Exhibit D of the GCAM. *https://prod.nais.nasa.gov/pub/pub_library/srba.*

Subpart C—Post Federal Award Requirements

■ 9. Revise § 1800.339 to read as follows:

§ 1800.339 Termination.

NASA reserves the ability to terminate a Federal award in accordance with § 200.338 through § 200.342 and as set forth in section D21 of the GCAM.

Appendix A to Part 1800 [Removed]

■ 10. Remove appendix A to part 1800.

Appendix B to Part 1800 [Removed]

■ 11. Remove appendix B to part 1800.

Cheryl E. Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2019–09569 Filed 5–8–19; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 5

[Docket No. DHS–2018–0075]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security U.S. Immigration and Customs Enforcement-007 Criminal History and Immigration Verification (CHIVe) System of Records

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is issuing a final rule to amend its regulations to exempt portions of an updated and reissued system of records titled, ''Department of Homeland Security/Immigration and Customs Enforcement-007 Criminal History and Immigration Verification (CHIVe) System of Records'' from certain provisions of the Privacy Act. Specifically, the Department exempts portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: This final rule is effective May 9, 2019.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Jordan Holz, (202–732–3300), Acting Privacy Officer, U.S. Immigration and Customs Enforcement, Washington, DC 20536. For privacy issues please contact: Jonathan R. Cantor (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) U.S. Immigration and Customs Enforcement (ICE) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (83 FR 20738, May 8, 2018) proposing to exempt portions of DHS/ICE–007 Criminal History and Immigration Verification (CHIVe) System of Records from one or more provisions of the Privacy Act because of criminal, civil, and

administrative enforcement requirements. This system of records was published concurrently in the **Federal Register** (83 FR 20844, May 8, 2018), and comments were invited on both the NPRM and SORN.

II. Public Comments

DHS received six comments on the NPRM and 92 on the SORN.

NPRM and SORN

DHS has reviewed the six comments received for the NPRM and the 92 comments for the SORN. Because the comments submitted for both the SORN and NPRM were similar in nature, DHS has summarized them based on the nature of the comment. The comments primarily discussed the following:

- Objecting to the Department of Health and Human Services (HHS) using immigration status as a factor in granting or denying an application for a potential Unaccompanied Alien Child (UAC) sponsor;
- Objecting to ICE's involvement in the UAC sponsor screening process by collecting information on potential UAC sponsors and other adult members of those sponsors' households, determining these individuals' immigration statuses, and sharing that information with HHS;
- Stating that this new process is not in the best interests of the child, and that children will be denied sponsors who could provide suitable living environments; and
- Objecting to the potential separation of families, when this would not be in the best interests of the child.

These comments pertain to ICE's involvement in the UAC sponsor screening process. In this process, ICE shares very limited information with HHS for a discrete purpose. Under its legal authority, ICE shares immigration status and limited criminal history information with HHS to inform an HHS determination whether to grant or deny a UAC sponsorship application.

Though this process involves the sharing of information, the comments received do not pertain to the Privacy Act exemptions proposed by DHS in this rulemaking. Therefore, DHS will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information, Privacy.

For the reasons stated in the preamble, DHS amends chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

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

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301.

Subpart A also issued under 5 U.S.C. 552.

Subpart B also issued under 5 U.S.C. 552a.

■ 2. Amend appendix C to part 5 by adding paragraph 80 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

80. The DHS/ICE–007 Criminal History and Immigration Verification (CHIVe) System of Records consists of electronic and paper records and will be used by DHS and its components. The CHIVe System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including the enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. The CHIVe System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process. Information on a completed investigation may be withheld and exempt from disclosure if the fact that an investigation occurred remains sensitive after completion.

(b) From subsection (d) (Access and Amendment to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed

under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(j) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2019–09598 Filed 5–8–19; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0703; Product Identifier 2018–NM–007–AD; Amendment 39–19630; AD 2019–08–09]

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 747–8 and 747–8F series airplanes. This AD was prompted by reports of damaged vapor seals, block seals, and heat shield seals on the outboard pylons between the engine strut and aft fairing. This AD requires installing new aft fairing vapor seals, heatshield seals, heatshield seal retainers, block seals, and outboard lateral restraint access panels. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 13, 2019.

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–2018–0703.

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–2018–0703; 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: Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *Christopher.R.Baker@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 747–8 and 747–8F series airplanes. The NPRM published in the **Federal Register** on August 3, 2018 (83 FR 38096). The NPRM was prompted by reports of damaged vapor seals, block seals, and heat shield seals on the outboard pylons between the engine strut and aft fairing. The NPRM proposed to require installing new aft fairing vapor seals, heatshield seals, heatshield seal retainers, block seals, and outboard lateral restraint access panels.

We are issuing this AD to address heat damage to the vapor seals between the engine strut and aft fairing. Such damage could allow flammable fluid leakage out of the aft fairing, which could result in an uncontrolled fire in the engine strut.

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 Review Airplane Maintenance Records in Lieu of an Inspection

United Parcel Service (UPS) requested that operators be allowed to perform a records review to determine if the affected part number is installed in lieu of performing an inspection. UPS stated that the records review will provide an equivalent level of safety. UPS stated that in accordance with paragraph (g)(2) of the proposed AD, it would be required to inspect all Model 747–8F airplanes within 4 years or 4,800 flight cycles after the AD effective date, whichever occurs first.

We agree with the commenter's request that a review of the airplane maintenance records is acceptable in lieu of an inspection if the part number of the part can be conclusively determined from that review. We have revised paragraph (g)(2) of this AD accordingly.

Request To Revise the Line Numbers in the Applicability Paragraph

Boeing requested we revise the proposed AD to address airplanes only specified in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, line numbers (L/Ns) 1420 through 1540, instead of all 747–8 and 747–8F series airplanes as specified in paragraph (c), ''Applicability,'' of the proposed AD.

Boeing stated that airplanes not identified in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, L/Ns 1541 and on, were built and delivered from the Boeing factory with the correct parts. Boeing commented that the factory utilizes the approved Boeing Production System to maintain configuration control of the airplanes through delivery, and that the remainder of the Model 747–8 fleet is covered by Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017.

We disagree with the commenter's request. As we stated in the ''Differences Between this Proposed AD and the Service Information'' of the NPRM, the applicability in this AD does not refer to paragraph l. A., ''Effectivity,'' of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017. The service information does not contain a comprehensive list of the airplanes affected by the identified unsafe condition because the spare parts identified in paragraph (j) of this AD have been determined to be rotable parts that are capable of being installed on all Model 747–8 and 747–8F series airplanes. Therefore, the applicability of this AD is all Model 747–8 and 747–8F series airplanes.

Additionally, there is the potential for previously delivered Model 747–8 and 747–8F airplanes having the affected spare parts installed during a repair of the aft fairing. Delivered airplanes with line numbers 1541 and on could have been exposed to the affected parts between delivery and as of the effective

date of this AD, which is why operators can either review airplane maintenance records to confirm whether the subject parts are not installed, or perform an inspection of the parts on the airplanes.

We have been informed by operators that the practice of rotating interchangeable parts among airplanes is widespread and even a key part of their operations. In the absence of an AD or airworthiness limitation (AWL) that restricts the installation of the affected parts, we cannot be assured that the unsafe condition will not be introduced to Model 747–8 and 747–8F airplanes that are not identified in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017. In addition, we cannot rely solely on the Boeing Production System to maintain configuration control of these airplanes until the AD has been published. In order to eliminate the unsafe condition, we must address all of the potentially exposed airplanes. We have not changed this AD in this regard.

Request To Remove the Parts Installation Prohibition Paragraph

Boeing requested that we remove the ''Parts Installation Prohibition'' paragraph in the proposed AD. Boeing stated that some of the parts listed in paragraph (j), ''Parts Installation Prohibition,'' remain in use on all Model 747–8 airplanes and therefore cannot be prohibited.

Boeing also commented that, regarding the seals, rotation of these parts from one airplane to another is not feasible due to their location and the effort required, as the aft fairings must be removed and reinstalled to gain access to the seals. In addition, Boeing stated that the lateral restraint access panels were revised to include an integral air scoop on one side, and if a panel is inadvertently installed in an incorrect location, the seal system would still operate with an acceptable level of safety.

We partially agree with the commenter's request. We agree the vapor seal-outboard aft fairing, part number (P/N) 323U8452–3, is a part that could be used as a part of the service information modification. Therefore, we have revised the ''Parts Installation Prohibition/Limitation'' paragraph in this AD to specify that no person may install a vapor seal with P/N 323U8452–3, on any airplane, unless it is a new vapor seal that has been installed as specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017.

We disagree with removing any other part numbers as they are subject to the heat damage that leads to the unsafe condition. However, we have revised the compliance time specified in paragraph (j) of this AD by removing ''as of the effective date of this AD'' and replacing it with either ''as of the determination that no affected part is installed'' or ''after accomplishing the required actions specified in paragraph (g) of this AD'', depending on whether the actions in the service information specified in paragraph (g) of this AD must be done.

In addition, for clarity, we revised paragraph (g)(2) of this AD by listing the affected part numbers instead of referring to paragraph (j) of this AD for the part numbers.

Request To Clarify the Requirements of the Parts Installation Prohibition Paragraph

Cathay Pacific Airways Limited (Cathay) requested clarification of the requirements in the ''Parts Installation Prohibition'' paragraph of the proposed AD. Cathay stated that the paragraph should only be applicable to airplanes that have been modified in accordance with Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, instead of being applicable to any airplane modified as of the effective date of the AD. Cathay stated that if the intention is indeed for any airplane, then it asked the FAA to clarify the following:

- Whether the intent of the proposed AD is to fulfill this paragraph requirement as of the compliance time of the proposed AD instead of as of the effective date of this proposed AD;
- Whether this paragraph affects the already installed parts or only the new parts to be installed in accordance with Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017. Cathay stated that on the effective date of the proposed AD, some of the airplanes are still in pre-mod configuration and are installing the pre-mod parts;
- Whether after the effective date of the proposed AD, do operators need to accomplish Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, immediately and install the post-modification parts if the related parts are found damaged at line maintenance as a non-routine findings; and
- Whether after the effective date of the proposed AD, do operators need to accomplish Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, immediately and install the post-modification parts if the related parts are found damaged during the Boeing Alert Service Bulletin 747–54A2246, dated February 5, 2016, inspections.

We agree to provide clarification for the commenter. Paragraph (g)(1) of this AD requires operators to complete the requirements in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, within 4 years or 4,800 flight cycles after the effective date of this AD. Paragraph (g)(2) of this AD requires operators to determine if any affected part is installed and if so, to complete the applicable replacement in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, within 4 years or 4,800 flight cycles after the effective date of this AD.

Within that time period, operators of airplanes that have any affected parts may use the existing/pre-modification parts that are subject to the repetitive inspections of AD 2017–04–13, Amendment 39–18808 (82 FR 11795, February 27, 2017) (''AD 2017–04–13''). If it is discovered during line maintenance that the subject parts are damaged, the operator has the option to replace the parts that are damaged using either Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, or Boeing Alert Service Bulletin 747–54A2246, dated February 5, 2016. Thus, operators are able to continue to conduct the repetitive inspections as well as accomplish the repairs using Boeing Alert Service Bulletin 747–54A2246, dated February 5, 2016, while using the older parts, for up to 4 years or 4,800 flight cycles from the effective date of this AD.

However, operators are required to accomplish Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, within the same compliance time specified in this AD. The FAA encourages operators to install the newer parts to eliminate the unsafe condition and terminate the inspections required by AD 2017–04–13.

For airplanes that do not have any affected parts, we have determined that in order to address the unsafe condition, we cannot allow that condition to be introduced into additional airplanes in the fleet. Therefore, paragraph (j)(1) of this AD is applicable to those airplanes and the prohibition and limitation specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD must be complied with as of the determination that no affected part is installed.

Paragraph (j)(2) of this AD is only applicable to the airplanes that have incorporated the actions specified in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017. Once an operator incorporates the new parts in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, operators must comply with the

prohibition and limitation specified in paragraphs (j)(2)(i) and (j)(2)(ii) 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

We reviewed Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017. This service information describes procedures for installing new aft fairing vapor seals, heatshield seals, heatshield seal retainers, block seals, and outboard lateral restraint access panels. 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 13 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation of vapor seals, heatshield seals, heatshield seal retainers, block seals, and outboard lateral restraint access panels.	136 work-hours × $85 per hour = $11,560.	$21,910	$33,470	$435,110

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 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):

2019–08–09 The Boeing Company: Amendment 39–19630; Docket No. FAA–2018–0703; Product Identifier 2018–NM–007–AD.

(a) Effective Date

This AD is effective June 13, 2019.

(b) Affected ADs

This AD affects AD 2017–04–13, Amendment 39–18808 (82 FR 11795, February 27, 2017) (''AD 2017–04–13'').

(c) Applicability

This AD applies to all The Boeing Company Model 747–8 and 747–8F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Unsafe Condition

This AD was prompted by reports of damaged vapor seals, block seals, and heat shield seals on the outboard pylons between the engine strut and aft fairing. We are issuing this AD to address heat damage to the vapor seals between the engine strut and aft fairing. Such damage could allow flammable fluid leakage out of the aft fairing, which could result in an uncontrolled fire in the engine strut.

(f) Compliance

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

(g) Required Actions

(1) For airplanes identified in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017: Except as required by paragraph (h) of this AD, at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017.

(2) For airplanes not identified in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017: Within 4 years or 4,800 flight cycles after the effective date of this AD, whichever occurs first, inspect to determine if any part number identified in paragraphs (g)(2)(i) through (g)(2)(v) of this AD is installed. If any part number specified in paragraphs (g)(2)(i) through (g)(2)(v) of this AD is installed, within 4 years or 4,800 flight cycles after the effective date of this AD, whichever occurs first, replace the part with a part number that is identified as an acceptable replacement in Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017. A review of airplane maintenance records is acceptable in lieu of this inspection if the part numbers specified in paragraphs (g)(2)(i) through (g)(2)(v) of this AD can be conclusively determined from that review.

(i) An access panel lateral restraint with part number (P/N) 321U8595–1, 321U8595–2, 321U8595–3, or 321U8595–4.

(ii) A block seal with P/N 323U8452–2.

(iii) A vapor seal with P/N 323U8452–3.

(iv) A heatshield seal with P/N 323U8852–1.

(v) A heatshield seal retainer P/N 323U8852–2.

(h) Exceptions to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) Terminating Action for Repetitive Inspections

Accomplishing the actions specified in paragraphs (g)(1) or (g)(2) of this AD, as applicable, terminates all requirements of AD 2017–04–13.

(j) Parts Installation Prohibition/Limitation

(1) For airplanes identified in paragraph (g)(2) of this AD on which no part specified in paragraphs (g)(2)(i) through (g)(2)(v) of this AD is found installed: As of the determination that no part specified in paragraphs (g)(2)(i) through (g)(2)(v) of this AD is installed, comply with the prohibition and limitation specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD.

(i) Do not install an access panel lateral restraint with part numbers (P/Ns) 321U8595–1, 321U8595–2, 321U8595–3 and 321U8595–4; a block seal with P/N 323U8452–2; a heatshield seal with P/N 323U8852–1; and a heatshield seal retainer P/N 323U8852–2; on any airplane.

(ii) Do not install a vapor seal with P/N 323U8452–3, on any airplane, unless it is a new vapor seal that is installed as specified in the Accomplishment Instructions Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017.

(2) For airplanes other than those identified in paragraph (j)(1) of this AD: After accomplishing the required actions specified in paragraph (g) of this AD, comply with the prohibition and limitation specified in paragraphs (j)(2)(i) and (j)(2)(ii) of this AD:

(i) Do not install an access panel lateral restraint with P/Ns 321U8595–1, 321U8595–2, 321U8595–3, and 321U8595–4; a block seal with P/N 323U8452–2; a heatshield seal with P/N 323U8852–1; and a heatshield seal retainer P/N 323U8852–2; on any airplane.

(ii) Do not install a vapor seal with P/N 323U8452–3, on any airplane, unless it is a new vapor seal that is installed as specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(l) Related Information

For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *Christopher.R.Baker@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–54A2247, dated August 3, 2017.

(ii) [Reserved]

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

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

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

Issued in Des Moines, Washington, on April 25, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–09521 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1070; Product Identifier 2018–NM–154–AD; Amendment 39–19633; AD 2019–08–12]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.; Canadair Limited) Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Viking Air Limited Model CL–215–6B11 (CL–215T Variant) and CL–215–6B11 (CL–415 Variant) airplanes. This AD was prompted by a report that a supplier fabricated Teflon parts with a charge of 15 percent fiberglass content instead of the specified 5 percent fiberglass content. This AD requires repetitive detailed visual inspections of the aileron control system cables and flap interconnect system cables for damage or disconnected cables, corrective actions if necessary, and replacement of the Teflon parts in the aileron control systems, aileron/rudder interconnect, and aileron power unit beam. The replacement of these parts terminates the repetitive inspections. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 13, 2019.

ADDRESSES: For service information identified in this final rule, contact Viking Air Limited, 1959 de Havilland Way, Sidney, British Columbia V8L 5V5, Canada; telephone +1–250–656–7227; fax +1–250–656–0673; email *acs-technical.publications@vikingair.com;* internet *http://www.vikingair.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–2018–1070.

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–2018–1070; 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: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Admin Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; 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 Viking Air Limited Model CL–215–6B11 (CL–215T Variant) and CL–215–6B11 (CL–415 Variant) airplanes. The NPRM published in the **Federal Register** on February 8, 2019 (84 FR 2791). The NPRM was prompted by a report that a supplier fabricated Teflon parts with a charge of 15 percent fiberglass content instead of the specified 5 percent fiberglass content. The NPRM proposed to require repetitive detailed visual inspections of the aileron control system cables and flap interconnect system cables for damage or disconnected cables, corrective actions if necessary, and replacement of the Teflon parts in the aileron control systems, aileron/rudder interconnect, and aileron power unit beam. The NPRM proposed that the replacement of these parts would terminate the repetitive inspections.

We are issuing this AD to address parts manufactured with this higher percentage of fiberglass, which may cause deterioration of control cables and adjacent parts due to greater friction should they come into contact, which could lead to reduced controllability of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–27, dated October 12, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Viking Air Limited Model CL–215–6B11 (CL–215T Variant) and CL–215–6B11 (CL–415 Variant) airplanes. The MCAI states:

> It was found that a supplier fabricated Teflon™ parts with a charge of 15% fiberglass content in lieu of the required 5%. Parts manufactured with this higher percentage of fiberglass may cause wear and rupture of control cables due to greater friction if contacted [which could lead to reduced controllability of the airplane].
>
> This [Canadian] AD mandates a [detailed] visual inspection of the aileron control system cables and flap interconnect system cables in the area of the aileron power control unit. The inspection is required to ensure that there is no cable damage or disconnect until the replacement of the Teflon™ parts has been completed in the aileron control system, the aileron/rudder interconnect and the aileron power unit beam. This [Canadian] AD also requires replacement of the Teflon™ parts.

Signs of damage include broken wires, unusual wear, or fraying cables. 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–2018–1070.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 215–3185, Revision 1, dated January 28, 2014; and Service Bulletin 215–4476, Revision 1, dated January 28, 2014. The service information describes procedures for a detailed visual inspection in the area of the aileron power control unit for damaged or disconnected aileron control system cables or flap interconnect system cables, and corrective actions. These documents are distinct since they apply to different airplane models in different configurations.

Bombardier has also issued Service Bulletin 215–3186, Revision 3, dated September 29, 2015; and Service

Bulletin 215–4477, Revision 2, dated September 29, 2015. The service information describes procedures for replacement of Teflon parts in the aileron control system, the aileron/rudder interconnect, and the aileron power unit beam. 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 1 airplane of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
66 work-hours × $85 per hour = $5,610	$16,456	$22,066	$22,066

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–08–12 Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.; Canadair Limited): Amendment 39–19633; Docket No. FAA–2018–1070; Product Identifier 2018–NM–154–AD.

(a) Effective Date

This AD is effective June 13, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Viking Air Limited (Type Certificate previously held by Bombardier, Inc.; Canadair Limited) airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model CL–215–6B11 (CL–215T Variant) airplanes, serial numbers 1085, 1086, 1093, 1094, and 1098 through 1101 inclusive.

(2) Model CL–215–6B11 (CL–415 Variant) airplanes, serial numbers 2076 through 2090 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by a report that a supplier fabricated Teflon parts with a charge of 15 percent fiberglass content instead of the specified 5 percent fiberglass content. We are issuing this AD to address parts manufactured with this higher percentage of fiberglass, which may cause deterioration of control cables and adjacent parts due to greater friction should they come into contact, which could lead to reduced controllability of the airplane.

(f) Compliance

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

(g) Inspection

Within 50 flight hours after the effective date of this AD: Accomplish a detailed visual inspection of the aileron control systems cables and flap interconnect system cables for disconnected or damaged cables in accordance with paragraph 2.A. of the Accomplishment Instructions of Bombardier Service Bulletin 215–3185, Revision 1, dated January 28, 2014; or Bombardier Service Bulletin 215–4476, Revision 1, dated January 28, 2014; as applicable. Repeat the inspection thereafter at intervals not to exceed 50 flight hours.

(h) Corrective Action

If any disconnected or damaged (including broken wires, unusual wear, or fraying) cables are found during any inspection required by paragraph (g) of this AD: Before further flight, obtain corrective actions approved by the Manager, New York ACO

Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Viking Air Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature. Accomplish the corrective actions within the compliance time specified therein. If no compliance time is specified in the corrective actions instructions, accomplish the corrective action before further flight.

(i) Replacement

Within 29 months after the effective date of this AD: Replace the Teflon parts in the aileron control system, the aileron/rudder interconnect, and the aileron power unit beam in accordance with Parts A, B, and C of the Accomplishment Instructions of Bombardier Service Bulletin 215–3186, Revision 3, dated September 29, 2015; or Bombardier Service Bulletin 215–4477, Revision 2, dated September 29, 2015.

(j) Terminating Action for Inspections

Accomplishing the replacement required by paragraph (i) of this AD on an airplane constitutes terminating action for the inspections required by paragraph (g) of this AD for that airplane.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (k)(1) through (k)(5) of this AD.

(1) Bombardier Service Bulletin 215–3186, dated September 30, 2013.

(2) Bombardier Service Bulletin 215–3186, Revision 1, dated November 26, 2014.

(3) Bombardier Service Bulletin 215–3186, Revision 2, dated December 5, 2014.

(4) Bombardier Service Bulletin 215–4477, dated September 30, 2013.

(5) Bombardier Service Bulletin 215–4477, Revision 1, dated November 26, 2014.

(l) No Reporting Requirement

Although Bombardier Service Bulletin 215–3185, Revision 1, dated January 28, 2014; Bombardier Service Bulletin 215–3186, Revision 3, dated September 29, 2015; Bombardier Service Bulletin 215–4476, Revision 1, dated January 28, 2014; and Bombardier Service Bulletin 215–4477, Revision 2, dated September 29, 2015; specify to submit certain information to the manufacturer, this AD does not include that requirement.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–27, dated October 12, 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–2018–1070.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Admin Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

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

(o) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 215–3185, Revision 1, dated January 28, 2014.

(ii) Bombardier Service Bulletin 215–3186, Revision 3, dated September 29, 2015.

(iii) Bombardier Service Bulletin 215–4476, Revision 1, dated January 28, 2014.

(iv) Bombardier Service Bulletin 215–4477, Revision 2, dated September 29, 2015.

(3) For service information identified in this AD, contact Viking Air Limited, 1959 de Havilland Way, Sidney, British Columbia V8L 5V5, Canada; telephone +1–250–656–7227; fax +1–250–656–0673; email *acs-technical.publications@vikingair.com;* internet *http://www.vikingair.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 April 25, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–09524 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0900; Product Identifier 2018–NM–101–AD; Amendment 39–19623; AD 2019–08–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports of cracking in the frame web, frame integral inboard chord, and fail-safe chord on multiple airplanes in multiple locations between stringers S–10 and S–17 above the passenger floor, in addition to an evaluation by the design approval holder (DAH) indicating that certain fuselage frame splices are subject to widespread fatigue damage (WFD). This AD requires repetitive inspections of certain fuselage upper frames, side frames, fail-safe chords, inboard chords, frame webs, and stringers; an inspection for open tooling holes and the presence of repairs in certain inspection zones; and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 13, 2019.

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–2018–0900.

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–2018–0900; 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: George Garrido, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *george.garrido@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on October 16, 2018 (83 FR 52173). The NPRM was prompted by reports of cracking in the frame web, frame integral inboard chord, and fail-safe chord on multiple airplanes in multiple locations between stringers S–10 and S–17 above the passenger floor, in addition to an evaluation by the DAH indicating that certain fuselage frame splices are subject to WFD. The NPRM proposed to require repetitive inspections of certain fuselage upper frames, side frames, fail-safe chords, inboard chords, frame webs, and stringers; an inspection for open tooling holes and the presence of repairs in certain inspection zones; and applicable on-condition actions.

We are issuing this AD to address cracks in these locations, which could grow large enough to sever frames. Continued operation with multiple adjacent severed frames or a combination of a severed frame adjacent to fuselage skin cracks in chem-milled pockets could result in a loss of structural integrity or uncontrolled decompression.

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.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the Supplemental Type Certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request for Clarification About Frame Replacement

Commenter Mark Bowen observed that ''if a crack or non SRM/Boeing repair'' is found as part of inspections accomplished under Boeing Alert Service Bulletin 737–53A1360, the only action given in the proposed AD is to contact Boeing for repair or alternative inspections. He asked whether frame replacement could be considered an alternative option to contacting Boeing for a repair or alternative inspections.

We partially agree with the commenter's request. Frame replacement that removes the cracked or repaired structure may be an option to repair or alternative inspections, provided the replacement can be shown to adequately address the unsafe condition. However, we note that the commenter did not provide sufficient documentation to show that, in regard to the unsafe condition identified in this AD, a frame replacement would adequately address the unsafe condition. In addition, the commenter did not provide details on a proposed method of compliance for accomplishing the proposed frame replacement and post-replacement inspections, nor any evidence of support for the proposal from the Boeing Commercial Airplanes Organization Designation Authorization (ODA). Operators may apply for an alternative method of compliance in accordance with paragraph (k) of this AD, provided they can show that frame replacement adequately addresses the unsafe condition. We have not changed this AD in this regard.

Request To Remove Model 737–100 Series Airplanes From a Sentence in the Discussion Paragraph of the NPRM

Boeing has requested that we remove Model 737–100 airplanes from the sentence ''We have received a report indicating that cracking is being found . . . on multiple Model 737–100, –200, –200C, –300, –400, and –500 series airplanes'' in the Discussion paragraph of the NPRM. The commenter asserted that they have not received reports of frame cracking on that airplane model.

We acknowledge that cracking has not been found on Model 737–100 series airplanes. However, that sentence is not restated in this final rule, so we have not revised it in this regard.

Request To Change Location of Unsafe Condition

Boeing requested that we change the location of the unsafe condition from ''below the passenger floor'' to ''between stringers S–10 and S–17 above the passenger floor,'' because the proposed AD and the referenced service information only address frame cracking above the passenger floor.

We agree with the commenter's request and have changed this AD accordingly.

Request To Coordinate Proposed Compliance Times and Actions With STC Holder

Boeing observed that the proposed AD would include the application of actions specific to the Model 737–200C airplanes (Group 3) to certain Model 737CL airplanes that have been modified to a non-Boeing STC cargo configuration. Boeing recommended the FAA coordinate the proposed compliance times and actions with the STC holder.

We partially agree with Boeing's comments. We agree with their observation regarding Model 737CL airplanes. However, we do not agree to coordinate compliance times and actions with the STC holders because this would unnecessarily delay issuance of the final rule, and the times and actions are similar for airplanes converted to a freighter. If an operator of airplanes modified with a non-Boeing freighter conversion STC would like to accomplish the AD at different times or with different actions, they can request an AMOC in accordance with paragraph (k) of this AD. No changes to this AD are necessary.

Clarification of Exception Language

We included a standard service bulletin exception in paragraph (i)(1) of the proposed AD for determining compliance with this AD. However, we did not intend the exception to apply to the text that describes exceptions to inspection areas found in notes or flag notes of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018. Therefore, we have revised paragraph (i)(1) of this AD accordingly.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018. This service information describes procedures for repetitive inspections of certain fuselage upper frames, side frames, fail-safe chords, inboard chords, frame webs, and stringers; an inspection for open tooling holes and the presence of repairs in certain inspection zones; and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 262 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	Up to 243 work-hours × $85 per hour = $20,655 per inspection cycle.	None	Up to $20,655 per inspection cycle.	Up to $5,411,610 per inspection cycle.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–08–02 The Boeing Company: Amendment 39–19623 ; Docket No. FAA–2018–0900; Product Identifier 2018–NM–101–AD.

(a) Effective Date

This AD is effective June 13, 2019.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracking in the frame web, frame integral inboard chord, and fail-safe chord on multiple airplanes in multiple locations between stringers S–10 and S–17 above the passenger floor, in addition to an evaluation by the design approval holder (DAH) indicating that the fuselage frame splices from station (STA) 380 to STA 520 and STA 727A to STA 907 between stringers S–13 and S–14 are subject to widespread fatigue damage (WFD). We are issuing this AD to address cracks in these locations, which could grow large enough to sever frames. Continued operation with multiple adjacent severed frames or a combination of a severed frame adjacent to fuselage skin cracks in chem-milled pockets could result in a loss of structural integrity or uncontrolled decompression.

(f) Compliance

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

(g) Actions for Group 1

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Inspection for Groups 2 through 9

For airplanes identified as Groups 2 through 9 in Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, except as specified in paragraph (i) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018.

(i) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD,'' except where Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, uses the phrase ''the original issue date of this service bulletin'' in a note or flag note.

(2) Where Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, specifies contacting Boeing for repair instructions: This AD requires repair and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(3) Where Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, specifies contacting Boeing for alternative inspections: This AD requires alternative inspections using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(4) For airplanes identified as Group 2 and Groups 4 through 9 in Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, that have been modified to a cargo configuration: In addition to the actions required by paragraph (h) of this AD, the actions specified in Table 9, ''Inspection of the Fuselage Frame Integral Inboard Chord and Web from STA 360 to STA 400, Right Side,'' of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, must be done by doing all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, at the applicable compliance times specified in Table 9, ''Inspection of the Fuselage Frame Integral Inboard Chord and Web from STA 360 to STA 400, Right Side,'' of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, except as specified in paragraphs (i)(1) and (i)(2) of this AD.

(j) Terminating Actions for Repetitive Inspections

(1) Accomplishment of a preventative modification specified in Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, at a tooling hole location, terminates the repetitive inspections specified in Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, that are required by paragraph (h) of this AD, for that modified tooling hole location only.

(2) Accomplishment of a high frequency eddy current inspection specified in Part 9 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, terminates the repetitive inspections specified in Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018, that are required by paragraph (h) of this AD, at the uppermost frame splice fastener location only.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

(l) Related Information

For more information about this AD, contact George Garrido, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *george.garrido@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1360, dated June 21, 2018.

(ii) [Reserved]

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

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

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

Issued in Des Moines, Washington, on April 25, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–09522 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1005; Product Identifier 2018–NM–109–AD; Amendment 39–19627; AD 2019–08–06]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–16–01, which applied to certain Airbus SAS Model A330–200 Freighter, –200, and –300 series airplanes. AD 2016–16–01 required an inspection of affected structural parts in the cargo and cabin compartments to determine if proper heat treatment has been done, and replacement or repair if necessary. This AD retains the requirements of AD 2016–16–01 and requires inspection of additional locations of the cabin compartment structure. This AD was prompted by a report of a manufacturing defect (*i.e.,* improperly heat-treated materials) that affects the durability of affected parts in the cargo and cabin compartments. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 13, 2019.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +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 referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1005.

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–2018–1005; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–16–01, Amendment 39–18599 (81 FR 51325, August 4, 2016; corrected September 1, 2016 (81 FR 60246)) (''AD 2016–16–01''). AD 2016–16–01 applied to certain Airbus SAS Model A300–200 Freighter, –200, and –300 series airplanes. The NPRM published in the **Federal Register** on December 10, 2018 (83 FR 63444). The NPRM was prompted by a report of a manufacturing defect (*i.e.,* improperly heat-treated materials) that affects the durability of affected parts in the cargo and cabin compartments. The NPRM proposed to continue to require an inspection of affected structural parts in the cargo and cabin compartments to determine if proper heat treatment has been done, and replacement or repair if necessary. The NPRM also proposed to require inspection of additional locations of the cabin compartment structure. We are issuing this AD to address crack initiation and propagation in affected parts in the cargo and cabin compartments, which could result in reduced structural integrity of the fuselage.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD 2018–0147, dated July 13, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A330–200 Freighter, –200, and –300 series airplanes. The MCAI states:

> It was determined that several structural parts, intended for cargo or cabin compartment installation, were manufactured from improperly heat-treated materials. A subsequent review identified that some of those parts were installed on aeroplanes manufactured between November 2011 and February 2013. Consequently, Airbus implemented measures into manufacturing processes to ensure detection and to prevent further installation of such non-conforming parts. A detailed safety assessment was accomplished to identify the possible impact of these parts on the aeroplane structure. The result of this structural analysis demonstrated the capability of the affected structure to sustain static limit loads, but failed to confirm that the affected structures meet the certified fatigue life.
>
> This condition, if not detected and corrected, could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.
>
> To address this unsafe condition, Airbus published the applicable SBs [service bulletins] to provide inspection instructions for affected structural cargo and cabin parts, respectively. Consequently, EASA issued AD 2015–0212 [which corresponds to FAA AD 2016–16–01] to require a one-time special detailed inspection (SDI) [eddy current inspection] to measure the electrical conductivity of affected parts, to identify the presence or absence of heat treatment, and, depending on findings, applicable corrective action(s) [replacement or repair].
>
> Since that [EASA] AD was issued, Airbus identified that some additional affected parts, located in the cabin compartment structure, have been missed and need to be inspected. Consequently, Airbus issued SB A330–53–3228 Revision 01 to introduce the locations of those missed structural parts to be inspected.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2015–0212, which is superseded, and expands the number and locations of structural parts to be inspected.

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–2018–1005.

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.

Request To Delay Issuance of AD

American Airlines (American) stated its support for the NPRM, but noted that Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018,

included several errors, including mislabeled parts, parts depicted in the wrong locations, and incorrect figure references. American reported that Airbus has verified the errors, which Airbus indicated would be addressed in a revised service bulletin. To avoid the need for requests for alternative methods of compliance (AMOCs), American requested that we delay issuance of the AD until revised service information has been released.

We acknowledge the commenter's concerns. The amount of clarification needed would be too complex to include in this AD. We expect to work with Airbus and EASA to issue a global AMOC that addresses any known errors. In addition, we have added paragraph (n) in this AD, ''Exception to Service Information Specifications,'' to provide operators with information on how to address any other issues, if needed. We have redesignated subsequent paragraphs accordingly. We have also revised paragraphs (j), (k), (l)(2), and (m) of this AD to refer to this exception.

In light of the critical nature of the identified unsafe condition, we do not consider it warranted to delay the issuance of this final rule. If Airbus provides a revision to Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, we will review it in consideration of an AMOC for this AD, or we may consider future rulemaking action.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018, which describes procedures for inspecting affected structural parts in the cargo compartment to determine if proper heat treatment has been done, and replacing discrepant parts.

Airbus has also issued Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, which describes procedures for inspecting affected structural parts in the cabin compartment to determine if proper heat treatment has been done, doing additional work (inspecting additional locations of the cabin compartment structure), and doing related investigative and corrective actions. Related investigative actions include an eddy current inspection to verify the measurement from the inspection to determine if proper heat treatment has been done. Corrective actions include replacing discrepant parts.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Actions	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2016–16–01	11 work-hours × $85 per hour = $935	$0	$935	$18,700
New additional work	5 work-hours × $85 per hour = $425	0	425	8,500

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

ESTIMATED COSTS OF ON-CONDITION ACTION

Labor cost	Parts cost	Cost per product
45 work-hours × $85 per hour = $3,825	$0 *	$3,825

* We have received no definitive data on the parts cost for the on-condition action.

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

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–16–01, Amendment 39–18599 (81 FR 51325, August 4, 2016; corrected September 1, 2016 (81 FR 60246)), and adding the following new AD:

2019–08–06 Airbus SAS: Amendment 39–19627; Docket No. FAA–2018–1005; Product Identifier 2018–NM–109–AD.

(a) Effective Date

This AD is effective June 13, 2019.

(b) Affected ADs

This AD replaces AD 2016–16–01, Amendment 39–18599 (81 FR 51325, August 4, 2016; corrected September 1, 2016 (81 FR 60246)) (''AD 2016–16–01'').

(c) Applicability

This AD applies to the Airbus SAS airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, manufacturer serial numbers 1175, 1180, 1287 through 1475 inclusive, 1478, 1480, 1483, and 1506.

(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.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report of a manufacturing defect (*i.e.,* improperly heat-treated materials) that affects the durability of affected parts in the cargo and cabin compartments. We are issuing this AD to address crack initiation and propagation in affected parts in the cargo and cabin compartments, which could result in reduced structural integrity of the fuselage.

(f) Compliance

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

(g) Retained Inspection of Affected Structure in the Cargo Compartment, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2016–16–01, with revised service information. Within 72 months since first flight of the airplane, do an eddy current inspection (*i.e.,* conductivity measurement) of affected structural parts in the cargo compartment to determine if proper heat treatment has been done as identified in, and in accordance with, the Accomplishment Instructions of Airbus Service Bulletin A330–53–3227, dated August 18, 2015; or Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018. As of the effective date of this AD, only Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018, may be used.

(h) Retained Replacement of Non-Conforming Parts in the Cargo Compartment, With Revised Service Information

This paragraph restates the requirements of paragraph (h) of AD 2016–16–01, with revised service information. If, during the inspection required by paragraph (g) of this AD, an affected structural part in the cargo compartment is identified to have a measured value greater than 26 megasiemens per meter (MS/m), or greater than 44.8% International Annealed Copper Standard (IACS), before further flight, replace the affected structural part with a serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3227, dated August 18, 2015; or Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018. As of the effective date of this AD, only Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018, may be used.

(i) Retained Repair of Non-Conforming Parts in the Cargo Compartment, With Revised Service Information

This paragraph restates the requirements of paragraph (i) of AD 2016–16–01, with revised service information. If, during the inspection required by paragraph (g) of this AD, an affected structural part in the cargo compartment is identified to have a measured value other than those specified in Figure A–GFAAA, Sheet 01, ''Inspection Flowchart,'' of Airbus Service Bulletin A330–53–3227, dated August 18, 2015; or Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018; before further flight, repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature. As of the effective date of this AD, only Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018, may be used to identify the measured value.

(j) Retained Inspection of Affected Structure in the Cabin Compartment, With Revised Service Information

This paragraph restates the requirements of paragraph (j) of AD 2016–16–01, with revised service information. Within 72 months since first flight of the airplane, do an eddy current inspection of affected structural parts in the cabin compartment to determine if proper heat treatment has been done as identified in, and in accordance with, the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, dated August 18, 2015; or Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, except as required by paragraph (n) of this AD. As of the effective date of this AD, only Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, except as required by paragraph (n) of this AD, may be used.

(k) Retained Replacement of Non-Conforming Parts in the Cabin Compartment, With Revised Service Information

This paragraph restates the requirements of paragraph (k) of AD 2016–16–01, with revised service information. If, during the inspection required by paragraph (j) of this AD, an affected structural part in the cabin compartment is identified to have a measured value greater than 26 MS/m or greater than 44.8% IACS, before further flight, replace the affected structural part with a serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, dated August 18, 2015; or Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, except as required by paragraph (n) of this AD. As of the effective date of this AD, only Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, except as required by paragraph (n) of this AD, may be used.

(l) Retained Repair of Non-Conforming Parts in the Cabin Compartment, With Revised Service Information and New Alternative Actions

This paragraph restates the requirements of paragraph (l) of AD 2016–16–01, with revised service information and new alternative actions. If, during the inspection required by paragraph (j) of this AD, an affected structural part in the cabin compartment is identified to have a measured value other than those specified in Figure A–GFAAA, Sheet 01, ''Inspection Flowchart,'' of Airbus Service Bulletin A330–53–3228, dated August 18, 2015; or to have a measured value between 22 MS/m and 26 MS/m or between 37.9 and 44.8% IACS, as specified in Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018; before further flight, do the actions specified in paragraph (l)(1) or (l)(2) of this AD. As of the effective date of this AD, only Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, may be used to identify the measured value.

(1) Repair 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.

(2) Do an eddy current inspection to verify the measurement, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, except as required by paragraph (n) of this AD.

(i) If an affected structural part in the cabin compartment is identified to have a measured value between 22 MS/m and 26 MS/m or between 37.9 and 44.8% IACS, before further flight, repair 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.

(ii) If an affected structural part in the cabin compartment is identified to have a measured value greater than 26 MS/m or greater than 44.8% IACS, before further flight, do the replacement specified in paragraph (k) of this AD.

(m) New Requirement of This AD: Inspection of Additional Cabin Locations

For an airplane on which the cabin compartment structure was inspected and corrective actions were done before the effective date of this AD as specified in the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, dated August 18, 2015: Before exceeding 108 months since the airplane's first flight, do an eddy current conductivity test of the forward cabin overhead compartment, and do all applicable related investigative and corrective actions, in accordance with the applicable ''additional work'' task in the Accomplishment Instructions of Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, except as required by paragraph (n) of this AD. Do all applicable related investigative and corrective actions before further flight. Where Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, specifies to contact Airbus for appropriate action: Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (q)(2) of this AD.

(n) Exception to Service Information Specifications

Any required action specified in Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018, that cannot be accomplished as specified therein must be accomplished using a method approved in accordance with the procedures specified in paragraph (q)(1) of this AD.

(o) No Reporting

Although Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018; and Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018; specify to submit certain information to the manufacturer, and specify that action as ''RC'' (required for compliance), this AD does not include that requirement.

(p) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraphs (g), (h), and (i) of this AD, if those actions were performed before the effective date of this AD using the following service information.

(i) Airbus Service Bulletin A330–53–3227, dated August 18, 2015, which was incorporated by reference in AD 2016–16–01.

(ii) Airbus Service Bulletin A330–53–3227, Revision 01, dated July 5, 2016.

(2) This paragraph provides credit for the actions specified in paragraphs (j), (k), and (l) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A330–53–3228, dated August 18, 2015, which was incorporated by reference in AD 2016–16–01.

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

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

(ii) AMOC letters ANM–116–17–118, dated February 2, 2017; and AIR–676–18–369, dated September 17, 2018; approved previously for AD 2016–16–01, are approved as AMOCs for the corresponding provisions of this AD.

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

(r) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0147, dated July 13, 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–2018–1005.

(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; telephone and fax 206–231–3229.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (s)(4) and (s)(5) of this AD.

(s) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 13, 2019.

(i) Airbus Service Bulletin A330–53–3227, Revision 02, dated July 25, 2018.

(ii) Airbus Service Bulletin A330–53–3228, Revision 01, dated April 11, 2018.

(4) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on April 25, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–09523 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0081; Airspace Docket No. 19–AGL–8]

RIN 2120–AA66

Amendment of Class E Airspace; Manitowoc and Sheboygan, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface at Manitowoc County Airport, Manitowoc, WI, and Sheboygan County Memorial Airport, Sheboygan, WI. This action is due to an airspace review caused by the decommissioning of the Manitowoc VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at these airports, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of Sheboygan County Memorial Airport are also being updated to coincide with the FAA's aeronautic database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Effective 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, 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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 6711; February 28, 2019) for Docket No. FAA–2019–0081 to amend the Class E airspace extending upward from 700 feet above the surface at Manitowoc County Airport, Manitowoc, WI, and Sheboygan County Memorial Airport, Sheboygan, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA discovered a typographic error in the bearing in the Manitowoc, WI, airspace legal description. That error is corrected in this action.

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 designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, 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 Rule

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

Modifying the Class E airspace extending upward from 700 feet above the surface at Manitowoc County Airport, Manitowoc, WI, by adding an extension 9.7 mile west and 5.8 miles east of the 350° (corrected from 352) bearing from the Manitowoc County: RWY 17–LOC extending from the Manitowoc County: RWY 17–LOC to 11 miles north of the Manitowoc County: RWY 17–LOC; and

Amending the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile radius (reduced from a 7-mile radius) at the Sheboygan County Memorial Airport, Sheboygan, WI; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is due to an airspace review caused by the decommissioning of the Manitowoc VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, 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 WI E5 Manitowoc, WI [Amended]

Manitowoc County Airport, WI
(Lat. 44°07′44″ N, long. 87°40′50″ W)
Manitowoc County: RWY 17–LOC
(Lat. 44°07′04″ N, long. 87°40′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Manitowoc County Airport, and within 9.7 mile west and 5.8 miles east of the 350° bearing from the Manitowoc County: RWY 17–LOC extending from the Manitowoc County: RWY 17–LOC to 11 miles north of the Manitowoc County: RWY 17–LOC.

* * * * *

AGL WI E5 Sheboygan, WI [Amended]

Sheboygan County Memorial Airport, WI
(Lat. 43°46′11″ N, long. 87°51′06″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Sheboygan County Memorial Airport.

Issued in Fort Worth, Texas, on May 1, 2019.

John A. Witucki,

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

[FR Doc. 2019–09467 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0035; Airspace Docket No. 19–ASW–2]

RIN 2120–AA66

Amendment of Class E Airspace; Brady, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Brady, Curtis Field, Brady, TX. This action is necessary due to the decommissioning of the Brady non-directional radio beacon (NDB), and cancellation of the NDB approach. It enhances the safety and management of standard instrument approach procedures for instrument flight rules (IFR) operations at this airport. Additionally, the geographic coordinates are being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, October 10, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, 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: John Witucki, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5900.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 6710; February 28, 2019) for Docket No. FAA–2019–0035 to amend Class E airspace extending upward from 700 feet above the surface at Brady, Curtis Field, Brady, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in 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 designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, 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 Rule

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

Modifying the Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Brady, Curtis Field and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Brady NDB, and cancellation of the NDB approach. This action enhances the safety and management of the standard instrument approaches.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, 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 Brady, TX [Amended]

Brady, Curtis Field, TX
(Lat. 31°10′45″ N, long. 99°19′26″ W)

That airspace extending upward from 700 feet above the surface within 6.4 mile radius of Curtis Field.

Issued in Fort Worth, Texas, on May 1, 2019.

John A. Witucki,

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

[FR Doc. 2019–09469 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0298; Airspace Docket No. 19–ACE–6]

RIN 2120–AA66

Amendment of Class E Airspace; Columbus, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends the header of the airspace legal description for the Class E airspace designated as an extension to the Class E surface area at Columbus Municipal Airport, Columbus, NE, by correcting the state listed in the header from MO to NE. This action does not affect the boundaries or operating requirements of the airspace.

DATES: Effective 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, 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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it corrects an error in the header of the airspace legal description of the Class E airspace designated as an extension to the Class E surface area at Columbus Municipal Airport, Columbus, NE.

History

The FAA discovered an error in the header of the airspace legal description for the Class E airspace designated as an extension to the Class E surface area at Columbus Municipal Airport, Columbus, NE, published in the **Federal Register** (83 FR 38253; August 6, 2018). The state in the header of the airspace

legal description incorrectly listed MO instead of NE as listed in the city and state in the header. This action corrects that error and does not affect the boundaries or operating requirements of the airspace.

Class E airspace designations are published in paragraph 6004 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 designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, 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 Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by correcting the state (formerly MO) listed in the header of the airspace legal description for the Class E airspace designated as an extension to the Class E surface area at Columbus Municipal Airport, Columbus, NE.

This is an administrative change that does not affect the airspace boundaries or operating requirements, and, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ACE NE E4 Columbus, NE [New]

Columbus Municipal Airport, NE
(Lat. 41°26′55″ N, long. 97°20′27″ W)
Columbus VOR/DME
(Lat. 41°27′00″ N, long. 97°20′27″ W)

That airspace extending upward from the surface within 2.4 miles each side of the Columbus VOR/DME 150° radial extending from the 4.2-mile radius of Columbus Municipal Airport to 7.0 miles southeast of the airport, and within 2.4 miles each side of the Columbus VOR/DME 309° radial extending from the 4.2-mile radius of Columbus Municipal Airport to 7.7 miles northwest of the airport.

Issued in Fort Worth, Texas, on May 1, 2019.

John A. Witucki,

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

[FR Doc. 2019–09466 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SATS No. KS–029–FOR; Docket ID: OSM–2016–0003; S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

Kansas Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Kansas Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kansas proposed revisions to modernize its Plan, which remains largely unchanged since its approval on February 1, 1982, and encompasses the November 14, 2008, changes to the Federal regulations.

DATES: The effective date is June 10, 2019.

FOR FURTHER INFORMATION CONTACT: William L. Joseph, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, OK 74128–4629. Telephone: (918) 581–6430. Email: *bjoseph@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Plan
II. Submission of the Amendment
III. OSMRE's Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decision
VI. Procedural Determinations

I. Background on the Kansas Plan

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act, (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop and submit to the Secretary of the Interior for approval, a

program (often referred to as a plan) for the reclamation of abandoned coal mines. On February 1, 1982, the Secretary of the Interior conditionally approved the Kansas Plan and fully approved it on April 14, 1982. Effective June 3, 1983, the Secretary of the Interior removed all conditions prohibiting the funding of State abandoned mine land construction grants. You can find background information on the Kansas Plan, including the Secretary's findings, the disposition of comments, and the approval of the Plan in the February 1, 1982, **Federal Register** (47 FR 4513). You can find later actions concerning the Kansas Plan and amendments to the Plan at 30 CFR 916.20 and 916.25.

II. Submission of the Amendment

By letter dated February 23, 2016 (Administrative Record No. KS–628), and in accordance with 30 CFR 884.15(a), Kansas sent OSMRE an amendment to its Plan at its own initiative.

We announced receipt of the proposed amendment in the July 14, 2016, **Federal Register** (81 FR 45426). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment to the Plan. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 15, 2016. We did not receive any public comments.

III. OSMRE's Findings

We are approving the amendment as described below. The following are the findings we made concerning Kansas's amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. Any Plan revisions that we do not specifically discuss below concern non-substantive wording or editorial changes and can be found in the full text of the Plan amendment available at *www.regulations.gov.*

Abandoned Mine Land Reclamation Plan for the State of Kansas

1. Letter of Designation From the Governor [30 CFR 884.13(a)(1)]

Kansas, in Part I of the Plan, included an updated letter from the Governor designating the Kansas Department of Health and the Environment (KDHE) as the agency responsible for the Abandoned Mine Reclamation Program in the state of Kansas. The content of this letter is consistent with the Federal requirements of 30 CFR 884.13(a)(1), that requires the Governor of Kansas to designate the governing authority to administer the State's reclamation program and to receive and administer grants under Part 886. Therefore, we are approving its inclusion.

2. Legal Opinion [30 CFR 884.13(a)(2)]

Kansas, in Part II of the Plan, included an updated legal opinion from the chief legal officer of the KDHE authorizing the KDHE, under the Kansas Mined-Land Conservation and Reclamation Act, to conduct its reclamation program. The legal opinion references three areas where Kansas law previously differed from the Federal requirements, all of which have since been modified through legislative actions to comply with the Federal requirements. These changes include: Authorizing the KDHE to receive grants and funds appropriated under any Federal act; authorizing KDHE to place a lien for its own benefit after reclamation of privately owned land; and authorizing KDHE to acquire abandoned mine land through purchase, donation, or eminent domain. The content of this legal opinion is consistent with the Federal requirements of 30 CFR 884.13(a)(2), requiring the Kansas Attorney General or chief legal officer to render an opinion that the agency designated by the Governor has the authority under Kansas law to conduct the program in accordance with Title IV of SMCRA. Therefore, we are approving its inclusion.

3. Policies and Procedures [30 CFR 884.13(a)(3)]

Kansas, in Part IV of the Plan, included a description of the policies and procedures to be followed by the KDHE in conducting its reclamation program. These policies and procedures include:

A. Purposes of the State Reclamation Program [30 CFR 884.13(a)(3)(i)]

Kansas, in Part IV.A of the Plan, described three reclamation program objectives. The objective given highest priority is the protection of public health, safety, and property, from extreme danger resulting from the adverse effects of coal mining practices [Part IV.A(1) of the Plan]. This includes sites that have been degraded by coal mining practices and the areas adjacent to those sites. The objective given the second highest priority is the protection of public health and safety from the adverse effects of coal mining practices [Part IV.A(2) of the Plan]. This includes sites that have been degraded by coal mining practices and the areas adjacent to those sites. The third stated objective is the restoration of land and water resources and the environment that has been degraded by the adverse effects of coal mining practices [Part IV.A(3) of the Plan]. These restoration measures include the conservation and development of soil, water, woodland, fish and wildlife, recreational resources, and agricultural productivity. These program purposes, goals, and objectives are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(i) and section 403 of the Act. Therefore, we are approving their inclusion.

B. Criteria for Identification of Eligible Lands and Water [30 CFR 884.13(a)(3)(ii)]

Kansas, in Part IV.B of the Plan, described the specific criteria for identifying lands and waters eligible for reclamation. Eligible lands and waters include those affected prior to August 3, 1977; those not under the reclamation responsibility of the operator, permittee, or agent of the permittee under government statutes or a result of bond forfeiture; and those that were affected by mining for minerals and materials other than coal. Ineligible lands and waters include those where the amount of bond forfeiture is sufficient to pay the total cost of reclamation, and those designated for remedial action pursuant to either the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*), or the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601–9675). These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(ii). Therefore, we are approving their inclusion.

C. Ranking and Selection Procedures [30 CFR 884.13(a)(3)(ii)]

Kansas, in Part IV.C of the Plan, described the procedures for the ranking and selection of reclamation projects. These descriptions include reclamation priorities, emergency projects, utilization of other State agencies, solicitation of public input, and the use of Federal funds. The three priority categories described are consistent with Section 403(a) of SMCRA. These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(ii). Therefore, we are approving their inclusion.

D. Coordination of Reclamation Work [30 CFR 884.13(a)(3)(iii)]

Kansas, in Part IV.D of the Plan, described KDHE's coordination with other agencies, which is limited to coordinating on the assessment of resource values and permits. Resource value coordination is done on a project

specific basis and may include cultural and historic resources, water quality, vegetation, fish and wildlife, soils, air quality, and recreational resources. Coordination with other agencies may also be required to obtain any necessary permits or authorizations. Additional coordination with the Rural Abandoned Mine Program or local Tribes is not necessary, because the KDHE is the only entity in the State of Kansas with a reclamation plan. This description of agency coordination is consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iii). Therefore, we are approving its inclusion.

E. Acquisition, Management, and Disposition of Land and Water [30 CFR 884.13(a)(3)(iv)]

Kansas, in Part IV.E of the Plan, described its policies and procedures regarding land acquisition, management, and disposal. Under its Plan, all lands that have been adversely affected by coal mining activity are eligible for acquisition, following a fair market value appraisal from an independent appraiser. If OSMRE grant funds are to be used for the acquisition, prior approval will be obtained from OSMRE. Lands may also be accepted by the Secretary of the Department on behalf of the State as a donation or gift. Any lands acquired by the State will be managed in accordance with Kansas state law. Disposition of such lands will be conducted in accordance with Federal law. These acquisition, management, and disposition policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iv). Therefore, we are approving their inclusion.

F. Policies and Procedures for Reclamation on Private Land [30 CFR 884.13(a)(3)(v)]

Kansas, in Part IV.F of the Plan, described its policies and procedures for reclamation on private land. Under its Plan, the KDHE has the authority to place a lien against lands where reclamation work results in a significant increase in fair market value. Any such lien may be satisfied in accordance with Kansas state law. Land appraisals must be conducted by an independent appraiser, unless KDHE has previously determined that no lien will be placed against the property. During OSMRE's review, it was noted that this section of the Plan referred to a Kansas state law (K.S.A. 49–428e), which fails to address the full requirements of 30 CFR 882.13(b) regarding notifying the landowner of the proposed lien and allowing the landowner a reasonable time to pay that amount in lieu of filing the lien. However, these lien requirements are satisfied in a different Kansas state law (K.A.R. 47–16–6). On January 17, 2017, OSMRE requested that Kansas add a reference to K.A.R. 47–16–6 in this section of their proposed Plan. Because this requested change was minor and non-substantive, Kansas was given the option to either incorporate this change or withdraw the amendment and resubmit at a later date. Kansas returned a revised Plan, which incorporated the additional reference on January 19, 2017, and the amendment process was allowed to continue uninterrupted. These revised policies and procedures are consistent with the Federal requirements of 30 CFR 882.13 and 884.13(a)(3)(v). Therefore, we are approving their inclusion.

G. Rights of Entry [30 CFR 884.13(a)(3)(vi)]

Kansas, in Part IV.G of the Plan, stated that its policies and procedures regarding rights of entry to lands or property for the purposes of determining the existence of adverse effects of past coal mining practices, and performing reclamation and emergency reclamation work will comply with Kansas state law. These policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(vi). Therefore, we are approving their inclusion.

H. Public Participation Policies [30 CFR 884.13(a)(3)(vii)]

Kansas, in Part IV.H of the Plan, described its public participation policies in the development and operation of its Plan. The KDHE may offer public meetings to provide information on proposed activities. News releases, including information on all public and adjudicatory hearings, may also be released to either state-wide or regional news outlets based on applicability. Public notices will include background information, a description of the requested action, an outline of the procedures, and other necessary information. All information maintained by KDHE will be accessible to the public in accordance with Kansas state law. Additional public involvement will occur through the grant and program amendment process, which will be provided to the public for review and comment prior to or concurrent with submittal to OSMRE. These policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(vii). Therefore, we are approving their inclusion.

I. Post-Reclamation Inspection Procedures

Kansas, in Part IV.I of the Plan, described its post-reclamation inspection procedures. Inspections of completed AML projects will document successes and identify any issues requiring additional maintenance. These routine inspections will continue for at least two years, or until permit monitoring requirements expire and the project site is deemed stable. These procedures have no counterpart Federal regulation, but their inclusion does not make the Plan inconsistent with the Federal requirements of 30 CFR 884.13. Therefore, we are approving their inclusion because OSMRE finds that this requirement of the Plan furthers the objective of section 405(i) that requires OSMRE, through its designated agents, to monitor the progress and quality of the Plan. Moreover, this provision is included because we determined that inspections of completed AML projects is no less stringent than section 405 of the Act and no less effective than the implementing regulations at part 884.

4. Administrative and Management Structure [30 CFR 884.13(a)(4)]

Kansas, in Part V of the Plan, included a description of the administrative and management structure to be used by the KDHE in conducting its reclamation program. The structure includes:

A. Organizational Structure [30 CFR 884.13(a)(4)(i)]

Kansas, in Part V.A of the Plan, described the organization of the KDHE and its relationship to other State organizations that may become involved in its reclamation program. KDHE is organized into two main branches, including the Division of the Environment and the Division of Health. The Surface Mining Section, part of the Bureau of Environmental Remediation, has the primary oversight responsibility for the State's reclamation program. Other agencies that may become involved include the Kansas Department of Agriculture, the KDHE Bureau of Water, the KDHE Bureau of Air, Kansas Forestry Service, Kansas Geological Survey, and the Kansas State Historical Society. This description of agency organization is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(i). Therefore, we are approving its inclusion.

B. Personnel and Staffing Policies [30 CFR 884.13(a)(4)(ii)]

Kansas, in Part V.B of the Plan, described its personnel and staffing policies that will govern the assignment

of personnel to its reclamation program. The KDHE will be responsible for complying with all pertinent Federal and State laws. This description of agency personnel policies is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(ii). Therefore, we are approving its inclusion.

C. Purchasing and Procurement Systems [30 CFR 884.13(a)(4)(iii)]

Kansas, in Part V.C of the Plan, stated that the purchasing and procurement systems used by the KDHE will be in accordance with Kansas Purchasing and Contracts regulations per the Kansas Department of Administration. These regulations meet the requirements of Office of Management and Budget (OMB) Circular A–102. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(iii). Therefore, we are approving its inclusion.

D. Management Accounting [30 CFR 884.13(a)(4)(iv)]

Kansas, in Part V.D of the Plan, stated that the financial management system used by the KDHE will meet the requirements of OMB Circular A–102, and 43 CFR part 12, subpart C. The accounting system used by the KDHE for the State Abandoned Mine Reclamation Fund will separate the accounting for each funding source, as identified in 30 CFR 872.12. This system description is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(iv). Therefore, we are approving its inclusion.

5. General Description of AML Problems [30 CFR 884.13(a)(5)]

Kansas, in Parts VI and VIII of the Plan, included a description of the reclamation activities to be conducted under its reclamation plan. This general description includes:

A. AML Problem Description [30 CFR 884.13(a)(5)(ii)]

Kansas, in Part VI.A of the Plan, described the problems occurring on known or suspected lands and waters which require reclamation. Examples of such problems include: Clogged streams and stream lands, dangerous piles or embankments; highwalls; impoundments; slides; hazardous and explosive gases; hazardous equipment or facilities; hazardous water bodies; industrial and residential waste; polluted water; subsidence; surface burning; underground mine fires; and vertical openings. This description is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(ii). Therefore, we are approving its inclusion.

B. AML Corrective Measures [30 CFR 884.13(a)(5)(iii)]

Kansas, in Part VI.B of the Plan, stated that the KDHE will use the best available technology and employ the corrective measures outlined in the OSMRE Guidelines to address the problems described. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(iii). Therefore, we are approving its inclusion.

C. Extent of Reclamation

Kansas, in Part VI.C of the Plan, described the factors to be considered in determining the minimum amount of reclamation needed to make a site safe and environmentally suitable. These factors include: The affected land and water area; uniformity of problem(s) over the entire site; proposed post-reclamation land use; available funds; off- and on-site benefits; required later additional reclamation work; landowner participation; cost effectiveness; multiple land use benefits; remining possibilities; and, any Federal or State violations on interim program sites. These reclamation factors have no counterpart Federal regulation, but their inclusion does not make the Plan inconsistent with the Federal requirements of 30 CFR 884.13. Therefore, we are approving their inclusion because we determined that the inclusion thereof is no less stringent than section 405 of the Act and no less effective than the implementing regulations at part 884.

D. Adverse Impacts of Reclamation

Kansas, in Part VI.D of the Plan, described potential adverse impacts of reclamation. Kansas stated that best available methodologies will be used to minimize short-term adverse impacts of reclamation activities. Potential impacts include: The release of fugitive dust and noxious gasses; sedimentation and erosion; temporary degradation of stream water quality and aquatic and riparian habitat; increase in noise and traffic levels; and temporary aesthetic degradation of the area. This description has no counterpart Federal regulation, but its inclusion does not make the Plan inconsistent with the Federal requirements of 30 CFR 884.13. Therefore, we are approving its inclusion.

E. Map [30 CFR 884.13(a)(5)(i)]

Kansas, in Part VIII of the Plan, included a map showing the general location of known or suspected eligible lands and waters within the State which require reclamation. This map is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(i). Therefore, we are approving its inclusion.

6. General Description of Conditions Prevailing in the Different Geographical Areas of the State Where Reclamation Is Planned [30 CFR 884.13(a)(6)]

Kansas, in Part VII of the Plan, included a description of the conditions prevailing in the different geographic areas of the State where reclamation is planned. This description includes:

A. The Economic Base [30 CFR 884.13(a)(6)(i)]

Kansas, in Part VII.A of the Plan, described the economic base for the State's five primary coal producing counties, including population density, average per capita income, employment, and land use data. This description is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(i), requiring a general description of the conditions, including economic base, prevailing in the different geographic areas of Kansas where reclamation is planned. Therefore, we are approving its inclusion.

B. Significant Esthetic, Historic, or Cultural, and Recreational Values [30 CFR 884.13(a)(6)(ii)]

Kansas, in Part VII.B of the Plan, stated that, to ensure that all potential impacts of the reclamation process are mitigated, the KDHE will consult with the Kansas State Historical Society regarding any significant esthetic, historic, or cultural sites, and will consult with the Kansas Department of Wildlife, Parks and Tourism (KDWPT) regarding any sites of significant recreational value. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(ii). Therefore, we are approving its inclusion.

C. Endangered and Threatened Plant, Fish, and Wildlife and Their Habitat [30 CFR 884.13(a)(6)(iii)]

Kansas, in Part VII.C of the Plan, stated that, in determining whether species mitigation or avoidance is required during reclamation project planning, KDHE will consult with the U.S. Fish and Wildlife Service and the KDWPT to ensure that the most current list of threatened or endangered plant, fish, or wildlife species and their habitats is used. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(iii), requiring a general description, derived

from available data, of the endangered and threatened plant, fish, and wildlife and associated habitat. Therefore, we are approving its inclusion.

IV. Summary and Disposition of Comments

Public Comments

OSMRE solicited public comment and provided an opportunity for a public hearing on the amendment of the Kansas Plan. No public comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

On May 3, 2016, as required by 30 CFR 884.14(a)(2), we requested comment on the amendment from various Federal agencies with an actual or potential interest in the Kansas Plan (Administrative Record No. KS–628.02). We did not receive any comments.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 884.14(a)(2), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 3, 2016, we requested comments on Kansas's Plan amendment (Administrative Record No. KS–628), but neither the SHPO nor ACHP responded to our request.

V. OSMRE's Decision

Based on the above findings, we approve the amendment to the Plan Kansas sent us on February 23, 2016 (Administrative Record No. KS–628). To implement this decision, we are amending the Federal regulations at 30 CFR part 916 that codify decisions concerning the Kansas Plan. In accordance with the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), this rule will take effect 30 days after the date of publication. Section 405 of SMCRA requires that each State with an abandoned mine reclamation program must have an approved State regulatory program pursuant to Section 503 of the Act. Section 503(a) of the Act requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rulemaking does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency reviews its legislation and proposed regulations to eliminate drafting errors and ambiguity, that the agency write its legislation and regulations to minimize litigation, and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State AML program or to the Plan amendment that the State of Kansas drafted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the Kansas Plan submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism as set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the Plan amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rulemaking on federally recognized Tribes and have determined that the rulemaking does not have substantial direct effects on one or more Tribes, on the relationship between the Federal Government and Tribes, or on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision is on the Kansas AML program and does not involve Federal regulations involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

Executive Order 13211, dated May 18, 2001, requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rulemaking is exempt from review under Executive Order 12866, and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rulemaking does not require an environmental impact statement because it is deemed a categorical exclusion within the meaning of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). It is documented in the DOI Departmental Manual, 516 DM 13.5(B)(29), that agency decisions on approval of state reclamation plans for abandoned mine lands do not constitute major Federal Actions.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking 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.*). The State submittal, which is the subject of this rulemaking, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not

have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rulemaking would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rulemaking is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rulemaking: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rulemaking, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rulemaking.

Unfunded Mandates

This rulemaking will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rulemaking, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining.

Dated: August 14, 2018.

Alfred L. Clayborne,

Regional Director, Mid-Continent Region.

Editorial note: This document was received for publication by the Office of the Federal Register on May 6, 2019.

For the reasons set out in the preamble, 30 CFR part 916 is amended as set forth below:

PART 916—KANSAS

■ 1. The authority citation for part 916 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 916.25 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 916.25 Approval of Kansas abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * *		
February 23, 2016	May 9, 2019	Abandoned Mine Land Reclamation Plan for the State of Kansas.

[FR Doc. 2019–09557 Filed 5–8–19; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No. ND–054–FOR; Docket ID: OSM–2016–0009; S1D1S SS08011000 SX064A000 178S180110; S2D2S SS08011000 SX064A000 17XS501520]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the North Dakota regulatory program (North Dakota program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This amendment, proposed by North Dakota, makes numerous rule changes to the North Dakota Administrative Code for surface coal mining and reclamation operations based on statutory changes that were made during North Dakota's 2015 Legislative Session. The statutory changes added a definition of ''commercial leonardite'' (oxidized lignite) and excluded commercial leonardite from the statutory definition of ''coal.'' The statutory changes also added the phrase ''and commercial leonardite'' and ''or commercial leonardite'' to many other sections of North Dakota's reclamation statute. The statutory changes necessitated a number of similarly related changes to North Dakota's administrative rules. Finally, some of North Dakota's proposed rule revisions include minor non-substantive grammatical, codification, and statutory citation cross-reference changes. North Dakota's revisions are intended to improve operational efficiency. OSMRE does not have any corresponding statutes or regulations about leonardite, and the changes are consistent with OSMRE policy about leonardite. As such, North Dakota's proposed statutory and regulatory changes add specificity about the regulation of leonardite beyond that contained in SMCRA and the Federal regulations, and we are approving them. OSMRE's approval of North Dakota's proposed statutory and regulatory changes are solely for purposes of complying with SMCRA and may not be viewed as waiving any property interests that the United States may have in leonardite deposits that are part of the federal coal estate in certain lands in North Dakota.

DATES: The effective date is June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Telephone: 307–261–6550, Email address: *jfleischman@OSMRE.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Submission of the Amendment
III. OSMRE's Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decision
VI. Procedural Determinations

I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. On the basis of these criteria, the Secretary of

the Interior conditionally approved the North Dakota program effective December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program in the December 15, 1980 **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.12, 934.13, 934.15, 943.16, and 934.30.

II. Submission of the Amendment

By letter dated May 19, 2016 (Administrative Record No. ND–PP–01), North Dakota sent OSMRE an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment at its own initiative to include numerous rule changes to North Dakota Administrative Code (NDAC) Title 69 Article 5.2 related to *Surface Coal Mining And Reclamation Operations* based on statutory changes to the North Dakota Century Code (NDCC) Chapters 38–12.1 (*Exploration Data*), and 38–14.1 (*Surface Mining and Reclamation Operations*), and 38–18 (*Surface Owners Protection Act*) that were made by Senate Bill No. 2377 (SB 2377) during North Dakota's 2015 Legislation Session. The statutory changes added a definition of ''commercial leonardite'' (oxidized lignite) and excluded commercial leonardite from the statutory definitions of ''coal'' in NDCC sections 38–12.1 and 38–14.1, while ensuring the mining of leonardite remains subject to the same permitting and reclamation requirements as coal. The statutory changes also added the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to many other sections of the reclamation statute as appropriate. Similarly, the proposed administrative rule changes primarily consist of adding the phrases ''and commercial leonardite'' and ''or commercial leonardite'' immediately after the word ''coal'' when it is not part of a definition or other phrase that does not otherwise include ''commercial leonardite.''

We announced receipt of the proposed amendment in the March 31, 2017, **Federal Register** (82 FR 16009). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Document ID No. OSM–2016–0009–0001). We did not hold a public hearing or meeting, as neither were requested. The public comment period ended on May 1, 2017. OSMRE did not receive any comments.

III. OSMRE's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment under SMCRA as described below.

A. History and Purpose of North Dakota's Amendment

''Leonardite is a coal-like substance, similar in structure and composition to lignitic coal and believed to be derived from lignitic coal by the process of natural oxidation. The higher oxygen content and less compact structure of leonardite, compared with lignite, make it undesirable as a fuel but indicate that it has potential as a source for chemicals and for other nonfuel uses'' (Fowkes, W.W., Frost, C.M., ''Leonardite: A Lignite Byproduct.'' Bureau of Mines, Report of Investigations, 5611, 1960, p. 2). It is also characterized as an oxidized lignite, a slack lignite or lignite waste. The value of leonardite is its content of greater than 8 humic acid. It is used in agriculture as a soil amendment and fertilizer, in the filtration of organics and metals from waste water, in the oil drilling industry as a thinner or buffer for drilling mud, and as a green sands additive for foundry casing.

In 1982, OSMRE issued a decision that leonardite is not ''coal'' under SMCRA, as defined in 30 CFR 700.5, and thus would not be subject to regulation or oversight under SMCRA when mined as a separate and distinct mineral deposit. OSMRE also explained that leonardite would not be regulated under SMCRA if the extraction of lignite is incidental to the extraction of leonardite or other minerals and the lignite extracted does not exceed 16⅔ per centum of the minerals removed for purposes of commercial use or sale, under the provisions of section 701(28)(A) of SMCRA (30 U.S.C. 1291). *See* December 14, 1982, letter from OSMRE to the North Dakota Public Service Commission (Administrative Record No. ND–Q–17). OSMRE took the position that, for SMCRA purposes, leonardite is considered to be an industrial mineral occurring in or near lignite deposits. As long as leonardite is not produced in conjunction with a lignite mining operation and therefore mined as a separate and distinct mineral deposit, it will not be within the purview of SMCRA. OSMRE's position was based upon a technical determination that the material in question, although related to lignite, does not meet the definition of coal, and is similar to the production of montan wax associated with lignite in California. Moreover, 30 CFR part 702 provides an exemption for coal extraction incidental to the extraction of other minerals. The definition of ''other minerals'' in 30 CFR 702.5(e) expressly provides that the term ''means any commercially valuable substance mined for its mineral value, excluding coal, topsoil, waste and fill material.'' The legislative history of the incidental extraction exemption in section 701(28)(A) of SMCRA (30 U.S.C. 1291) indicates that Congress intended for the exemption ''to exclude operations, such as limestone quarries, where coal is found but is not the mineral being sought.'' SEN. REPT. NO. 28, 94th Cong., 1st Sess. 98 (1975). OSMRE reaffirmed its position that leonardite is not coal, for purposes of SMCRA, in a July 22, 1994, **Federal Register** document (59 FR 37423, 37426).

North Dakota considers leonardite to be an industrial mineral or non-coal resource; however, in its discretion, North Dakota has been permitting and regulating leonardite in much the same way as combustible coal is permitted and regulated. North Dakota has historically regulated leonardite mining in a lawful and environmentally responsible manner without a requirement under SMCRA, but in a manner similar to the way it would be regulated under SMCRA if it were not exempt as a separate and distinct mineral deposit.

While OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, North Dakota's statutory definition of ''coal'' was originally written in a manner to specifically include it in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, North Dakota's Legislature approved statutory changes to exclude commercial leonardite from its definitions of ''coal'' in NDCC sections 38–12.1 and 38–14.1, while ensuring that the mining of leonardite remains subject to the same permitting and reclamation requirements as coal. In addition, the North Dakota legislature also developed a new definition of ''commercial leonardite.'' The statutory and regulatory changes were made to ensure that none of the requirements in North Dakota's approved coal regulatory program are otherwise changed. It is also important to note that the narrative accompanying North Dakota's proposed amendment states that SB 2377 includes similar changes to other sections of NDCC that are not part of the State coal regulatory program. North Dakota

subsequently clarified that the proposed changes in Chapters 38.11.2 (*Subsurface Exploration Damages*), 38–15 (*Resolution of Conflicts in Subsurface Mineral Production*), and 57–61 (*Coal Severance Tax*) of the NDCC did not require OSMRE approval.

B. Minor Revisions to North Dakota's Rules and Statutes

North Dakota proposed minor grammatical, codification, and statutory citation cross-reference changes to the following previously approved rules and statutes due to renumbering. No substantive changes to the text of these regulations were proposed. Because the proposed revisions to these previously approved rules are minor in nature and do not change any fundamental requirements or weaken North Dakota's authority to enforce them, we are approving the changes and find that they are no less effective than the Federal regulations at Title 30 (*Mineral Resources*), Chapter VII (Office of Surface Mining Reclamation and Enforcement, Department of the Interior), Parts 700 through 887. The following specific, minor revisions were made: (1) NDAC 69–05.2–01–02. Definitions. Paragraph 120. ''Valid Existing Rights'' c. Roads; statutory citation cross-reference change due to renumbering in the NDCC; (2) NDAC 69–05.2–08–10. Permit Applications—Permit area—Soil resources information; statutory citation cross-reference change due to renumbering in the NDCC; (3) NDCC Section 38–14.1–24. Environmental Protection Performance Standards; Subsection 5; deletion of statutory citation cross-reference change due to renumbering; and (4) NDCC 38–14.1–25. Prohibited Mining Practices; Subsections 2. and 3; minor grammatical changes.

C. Revisions to North Dakota's Rules and Statutes That Have No Corresponding Provisions to the Federal Regulations and/or SMCRA

North Dakota proposed numerous revisions to its statutes and regulations for which there are no Federal counterpart provisions. The proposed changes resulted from the approval of SB 2377 during North Dakota's 2015 Legislative Session that revised the definition of ''coal'' in the NDCC and added a new definition of ''commercial leonardite.'' As previously discussed in this final rule, leonardite is an oxidized form of lignite that is non-combustible, and it is not regulated under SMCRA as ''coal'' by OSMRE, as long as it is not produced as part of a lignite mining operation—it must be mined as a separate and distinct mineral deposit. North Dakota indicated in an email correspondence accompanying the amendment's informal submission that while it has not considered leonardite to be coal, it has traditionally regulated leonardite mining in much the same manner as surface coal mining and will continue, at its discretion, to do so based on the changes made by SB 2377. The statutory revisions also resulted in a number of related changes to North Dakota's rules in the NDAC, and primarily consist of adding the phrases ''and commercial leonardite'' and ''or commercial leonardite'' after the word ''coal.''

1. NDCC Sections 38–12.1–03.1 (Exploration Data); and 38–14.1–02.3 (Surface Mining and Reclamation Operations); Revised Definitions of the Term ''Coal''

As a result of SB 2377, North Dakota proposes to exclude ''commercial leonardite'' from the statutory definition of ''coal'' in Section 38–12.1–03.1 of the NDCC as it pertains to *Exploration Data.* The revised definition reads as follows: '' '[c]oal' means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal in both oxidized and nonoxidized forms, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.''

Similarly, North Dakota proposes to exclude ''commercial leonardite'' from the statutory definition of ''coal'' in section 38–14.1–02.3 of the NDCC about *Surface Mining and Reclamation Operations.* The revised definition reads as follows: '' '[c]oal' means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal in both oxidized and nonoxidized forms, having less than eight thousand three hundred British thermal units per pound [453.59 grams], moist and mineral matter free, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.''

The narrative accompanying North Dakota's proposed amendment explained that while OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, the North Dakota statutory definition of ''coal'' was originally written in a manner to specifically include leonardite in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, the North Dakota Legislature approved statutory changes to exclude commercial leonardite from the definition of coal in the NDCC, while ensuring that the mining of leonardite remains subject to the same, but unique, set of permitting and reclamation requirements as coal.

North Dakota's revised definitions provide a distinction between the terms and explicitly clarifies that ''coal'' does not include ''commercial leonardite.'' OSMRE does not have any corresponding provisions specifically about ''commercial leonardite.'' North Dakota's revised definitions of ''coal'' in its reclamation statute is, therefore, more specific than, but consistent with the definitions of ''lignite coal'' at section 701(30) of SMCRA, and ''coal'' at 30 CFR 700.5 of the Federal regulations. The lack of a Federal counterpart does not render North Dakota's proposed amendments less stringent than SMCRA or less effective than OSMRE's regulations. In addition, we also find that the underlying rationale North Dakota provided for justifying a modification of North Dakota's definitions is reasonable for purposes of SMCRA and is consistent with OSMRE's policy about leonardite (see section III.A. above). Accordingly, we are approving the amended definitions. We nevertheless note that OSMRE's approval of North Dakota's amendments for purposes of SMCRA may not be viewed as waiving any property interest the United States may have in leonardite deposits that may be part of the federal coal estate in North Dakota.

2. NDCC Sections 38–12.1–03.3 (Exploration Data) and 38–14.1–02.4 (Surface Mining and Reclamation Operations); Newly-Proposed Definition of ''Commercial Leonardite''

As a result of SB 2377, North Dakota proposes a new definition of ''commercial leonardite'' in both Sections 38–12.1–03.3 and 38–14.1–02.4 of the NDCC. Each definition reads as follows:

> ''Commercial leonardite'' means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.

The narrative accompanying North Dakota's proposed amendment explained that while OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, the North Dakota

statutory definition of ''coal'' was originally written in a manner to specifically include leonardite in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, the North Dakota Legislature approved statutory changes to exclude commercial leonardite from the definition of coal in the NDCC, while ensuring that the mining of leonardite remains subject to the same permitting and reclamation requirements as coal. Moreover, the proposed definition clarifies that ''commercial leonardite'' will be mined and used solely for purposes other than gasification or combustion to generate electricity.

North Dakota's newly proposed definitions of ''commercial leonardite'' are reasonable for purposes of SMCRA and are consistent with OSMRE's 1982 determination that leonardite does not comport with the definition of coal under SMCRA and fall within the parameters of section 701(28)(A) of SMCRA and 30 CFR part 702. *See* Section III.A. above. OSMRE does not have any corresponding provisions about ''commercial leonardite,'' and the lack of a Federal counterpart definition does not render North Dakota's amended program any less stringent than SMCRA or less effective than OSMRE's regulations. Instead, North Dakota's definition merely provides specificity beyond that contained in SMCRA and the Federal regulations. Moreover, North Dakota's explanation justifying the addition of a ''commercial leonardite'' definition is reasonable for purposes of SMCRA, and we approve the amended definition. We nevertheless note that OSMRE's approval of North Dakota's amendments for purposes of SMCRA may not be viewed as waiving any property interest the United States may have in leonardite deposits that may be part of the federal coal estate in North Dakota.

3. North Dakota's Proposed Inclusion of the Phrases ''and Commercial Leonardite'' and ''or Commercial Leonardite'' Throughout Its Reclamation Law and Rules

Related to its newly proposed definition of ''commercial leonardite'' in SB 2377, North Dakota also proposes to add the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to many provisions of the reclamation statute and immediately after the word ''coal'' in the rules when it is not part of a definition or other phrase that does not otherwise include ''commercial leonardite.''

The narrative accompanying North Dakota's proposed amendment explained that while OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, the North Dakota statutory definition of ''coal'' was originally written in a manner to specifically include leonardite in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, the North Dakota Legislature approved statutory changes to exclude commercial leonardite from the definition of coal in the NDCC, while ensuring that the mining of leonardite remains subject to the same permitting and reclamation requirements as coal.

North Dakota's desire to differentiate between the terms ''coal'' and ''commercial leonardite'' in its reclamation law and related rules is reasonable for purposes of SMCRA and is consistent with OSMRE's 1994 determination that leonardite is not ''coal'' as defined in 30 CFR 700.5, as enumerated in 59 FR 37423 (July 22, 1994), the policy Memorandum of November 3, 1982, and OSMRE correspondence on December 14, 1982. *See* Section III.A. above. As such, commercial leonardite would not be subject to regulation or oversight under SMCRA when mined as a separate and distinct mineral deposit. Thus, North Dakota's proposed addition of the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to its previously approved statutory provisions and regulations identifies a necessary distinction of the terms and provides specificity beyond that contained in SMCRA and the Federal regulations. OSMRE also finds that the underlying rationale North Dakota provided for justifying the addition of these phrases is reasonable for purposes of SMCRA and the lack of Federal counterpart phrases does not render the amendments less stringent than SMCRA or less effective than the Federal regulations. Accordingly, for purposes of SMCRA, we are approving North Dakota's proposed statute and rule changes that add the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to several provisions of the reclamation law and immediately after the word ''coal'' in the statute and regulations when it is not part of a definition or other phrase that doesn't otherwise include ''commercial leonardite.''

4. NDCC Section 38–14.1–02.23; Revised Definition of ''Pit''

As a result of SB 2377, North Dakota proposes to revise its existing definition of ''Pit'' in section 38–14.1–02.23 of the NDCC to read as follows: ''Pit'' means a tract of land, from which overburden, coal, or commercial leonardite, or any combination of overburden, coal, or commercial leonardite has been or is being removed for the purpose of surface coal mining operations.

North Dakota indicated in an email correspondence accompanying the amendment's informal submission that it has always regulated leonardite mining in the same way as combustible coal, albeit pursuant to a distinct set of statutes and regulations, and will continue to do so based on the changes made by SB 2377. To that end, North Dakota's revised definition of ''Pit'' adds commercial leonardite to the types of material that can be removed for the purposes of surface coal mining operations.

OSMRE does not have any corresponding provisions defining ''pit.'' As such, we find that North Dakota's proposed revisions to its definition of ''pit'' are reasonable for purposes of SMCRA and provide specificity beyond that contained in SMCRA and the Federal regulations, and the lack of a Federal counterpart definition does not render it less stringent than SMCRA nor less effective than OSMRE's implementing regulations. Furthermore, the amendment to the North Dakota programs comports with OSMRE policy on leonardite as enumerated in 59 FR 37423 (July 22, 1994) and the policy Memorandum of November 3, 1982, and OSMRE correspondence on December 14, 1982. See Section III.A. above. Accordingly, we are approving North Dakota's revised definition of ''pit'' with the understanding that any coal that is removed in combination with leonardite will be incidental to the extraction of leonardite, and not exceed 16 ⅔ per centum of the minerals removed for purposes of commercial use or sale under the provisions of Section 701(28)(A) of SMCRA.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, (Administrative Record Document ID No. OSM–2016–0009–0001), but did not receive any.

Federal Agency Comments

On May 26, 2016, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA (30 U.S.C. 1253), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota Program (Administrative Record No.

ND–PP–04). We received comments from three Federal Agencies.

The United States Forest Service (USFS) commented in a June 8, 2016, email response (Administrative Record No. ND–PP–06); the Mine Safety and Health Administration (MSHA) commented in a July 15, 2016, Letter (Administrative Record Document ID No. OSM–2016–0009–0004); and the Bureau of Land Management (BLM) commented in a letter dated July 22, 2016 (Administrative Record No. ND–PP–08).

The USFS responded that it did not have any comments on the proposed amendment about commercial leonardite.

MSHA also stated that it had reviewed the proposed changes in the amendment and had no comments.

The BLM responded that it reviewed the proposed changes to N.D. Admin. Code 69–05.2 and commented that the recent State law change does not affect the Federal reserved coal estate in North Dakota. The BLM further stated that North Dakota's reclassification of leonardite does not affect the terms of a Federal coal lease; a valid and binding contract between the United States and the lessee. OSMRE acknowledges these comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), OSMRE is required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that North Dakota proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on May 26, 2016, pursuant to 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. ND–PP–04). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 26, 2016, we requested comments on North Dakota's amendment (Administrative Record No. ND–PP–04). We did not receive comments from the SHPO or ACHP.

V. OSMRE's Decision

Based on the above findings, we are approving North Dakota's amendment that was submitted on May 19, 2016 (Administrative Record No. ND–PP–01).

To implement this decision, we are amending the Federal regulations, at 30 CFR part 934, that codify decisions concerning the North Dakota program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253) requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation. Other changes implemented through this final rule are administrative in nature and have no takings implications.

Executive Order 12866—Regulatory Planning and Review

Pursuant to Office of Management and Budget (OMB) guidance dated October 12, 1993, the approval of State program amendments are exempted from OMB review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3(a) of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard; and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations, if applicable. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of North Dakota drafted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the North Dakota regulatory program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism set forth in SMCRA. *See, e.g.,* 30 U.S.C 1201(f). As such, pursuant to Section 503(a)(1) and (7)(30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Tribes and have determined that the rule does not have substantial direct effects on one or more Tribes, on the relationship between the Federal Government and Tribes, or on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision pertains to the North Dakota regulatory program and does not involve Federal regulations involving Tribes or Tribal lands in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

Executive Order 13211 of May 18, 2001, which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq.*).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 4, 2019.

David A. Berry,

Regional Director, Western Region.

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—NORTH DAKOTA

■ 1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 934.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
May 19, 2016 ...	May 9, 2019	NDAC regulation changes to define commercial leonardite (oxidized lignite) and exclusion of commercial leonardite from the statutory definition of coal. NDAC 69–05.2–01–01.1a–d; NDAC 69–05.2–01–02.9–12, 32, 64b(6), 88, 93, 104, 108, 120b(2)(a) and c; NDAC 69–05.2–02–06.1; NDAC 69–05.2–03–01; NDAC 69–05.2–03–02; NDAC 69–05.2–04–01.5.2a(8); NDAC 69–05.2–04–04.2; NDAC 69–05.2–04–07.3a; NDAC 69–05.2–04–09.3; NDAC 69–05.2–05–08.1; NDAC 69–05.2–06–01.1a; NDAC 69–05.2–06–03.2b; NDAC 69–05.2–08–01.2; NDAC 69–05.2–08–02.1l; NDAC 69–05.2–08–04.3b; NDAC 69–05.2–08–05.1 and 2b,c,d,e and g; NDAC 69–05.2–08–06.1d; NDAC 69–05.2–08–10; NDAC 69–05.2–09–01.1, 3, and 5; NDAC 69–05.2–09–02.3, 6, 8, 12, and 14a; NDAC 69–05.2–09–09.1f and g; NDAC 69–05.2–09–18.3b; NDAC 69–05.2–09–19.1; NDAC 69–05.2–10–01.1b4 and 6a; NDAC 69–05.2–11–02.1c; NDAC 69–05.2–13–05; NDAC 69–05.2–13–08.6h; NDAC 69–05.2–13–12.1; NDAC 69–05.2–13–13; NDAC 69–05.2–18–01.13; NDAC 69–05.2–19–02.1; NDAC 69–05.2–19–04.4; NDAC 69–05.2–21–01.2; NDAC 69–05.2–21–03; NDAC 69–05.2–21–04; NDAC 69–05.2–22–07.4i; NDAC 69–05.2–24–01.1a(1); NDAC 69–05.2–24–09.1; NDAC 69–05.2–25–04.2.a; NDAC 69–05.2–26–06.3.c; NDAC 69–05.2–31–01.3; NDCC Sec. 38–12.1–01, Subsections 1–3; NDCC Sec. 38–12.1–02; NDCC Sec. 38–12.1–03, Subsections 1–3, and 7; NDCC Sec. 38–12.1–04, Subsections 1a, 2, and 5; NDCC Sec. 38–12.1–05, Subsections 1 and 3; NDCC Sec. 38–14.1–02, Subsections 3, 4, 10, 11, 13, 23, 28, and 35; NDCC Sec. 38–14.1–05, Subsection 3; NDCC Sec. 38–14.1–13, Subsection 3; NDCC Sec. 38–14.1–14, Subsection 1r(3)–(5), and s; NDCC Sec. 38–14.1–14, Subsection 2c; NDCC Sec. 38–14.1–21, Subsection 3e(2); NDCC Sec. 38–14.1–21, Subsection 4b; NDCC Sec. 38–14.1–24, Subsections 1 and 1.1; NDCC Sec. 38–14.1–24, Subsection 3b(2); NDCC Sec. 38–14.1–24, Subsections 5, 10, and 18; NDCC Sec. 38–14.1–25, Subsections 1–3; NDCC Sec. 38–14.1–27, Subsection 1b(2); NDCC Sec. 38–14.1–37, Subsections 1 a and b, 3, and 4; NDCC Sec. 38–18–05. Subsections 2 and 7; NDCC Sec. 38–18–07, Subsection 2; also all minor grammatical and codification changes.

[FR Doc. 2019–09559 Filed 5–8–19; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2019–0219]

Special Local Regulations; Crystal Pier Outrigger Race, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Crystal Pier Outrigger Race on May 11, 2019. These special local regulations are necessary to provide for the safety of the participants, crews, spectators, sponsor vessels of the event and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within these regulated areas unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced for the Crystal Pier Outrigger Race regulated areas from 7 a.m. to 5 p.m. on May 11, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.1101 for the Crystal Pier Outrigger Race regulated areas from 7 a.m. to 5 p.m. on May 11, 2019. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events in the San Diego Captain of the Port Zone, § 100.1101, specifies the location of the regulated areas for the Crystal Pier Outrigger Race which encompasses portions of Mission Bay, the Main Entrance Channel, Sail Bay, Fiesta Bay, South Shore Channel, and waters adjacent to Crown Point Beach Park. Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: April 18, 2019.

J.R. Buzzella,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2019–09568 Filed 5–8–19; 8:45 am]
BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0137]

RIN 1625–AA08

Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Breton Bay and McIntosh Run. This action is necessary to provide for the safety of life on these waters located at Leonardtown, MD, on October 5, 2019, and October 6, 2019, during a high-speed power boat demonstration event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

DATES: This rule is effective from 8 a.m. on October 5, 2019, to 6 p.m. on October 6, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0137 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 Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; 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
PATCOM Coast Guard Patrol Commander
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Southern Maryland Boat Club of Leonardtown, MD, notified the Coast Guard that from 9 a.m. to 5 p.m. on October 5, 2019, and from 9 a.m. to 5 p.m. on October 6, 2019, it will be conducting the Southern Maryland Boat Club Bash on the Bay in Breton Bay and McIntosh Run at Leonardtown, MD. In response, on March 18, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD'' (84 FR 9731). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this power boat demonstration event. During the comment period that ended April 17, 2019, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with this power boat demonstration event will be a safety concern for anyone intending to operate in or near the demonstration area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of Breton Bay and McIntosh Run before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published March 18, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation to be enforced from 8 a.m. to 6 p.m. on October 5, 2019, and from 8 a.m. to 6 p.m. on October 6, 2019. The regulated area will cover all navigable waters Breton Bay and McIntosh Run,

immediately adjacent to Leonardtown, MD shoreline, from shoreline to shoreline, within an area bounded to the east by a line drawn along latitude 38°16′43″ N and bounded to the west by a line drawn along longitude 076°38′30″ W, located at Leonardtown, MD. This special local regulation provides additional information about areas within the regulated area, their definitions, and the restrictions that will apply. These areas include a ''Course Area'', ''Buffer Zone'', ''Milling Area'' and ''Spectator Area''. They lie within an area bounded to the east by a line drawn along latitude 38°16′43″ N and bounded to the west by a line drawn along longitude 076°38′30″ W, located in Breton Bay and McIntosh Run, at Leonardtown, MD. The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after this power boat demonstration event, scheduled from 9 a.m. until 5 p.m. on October 5, 2019, and October 6, 2019. Except for participants and vessels already at berth, a vessel or person will be required to get permission from the COTP or PATCOM before entering the regulated area while the rule is being enforced. Vessel operators can request permission to enter and transit through the regulated area by contacting the PATCOM on VHF–FM channel 16. Vessel traffic will be able to safely transit the regulated area once the PATCOM deems it safe to do so. If permission is granted by the COTP or PATCOM, a person or vessel will be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels will be required to operate at a safe speed that minimizes wake while within the regulated area. Official Patrol vessels will direct spectator vessels while within the regulated area. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign. Vessels will be prohibited from loitering within the navigable channel. Only participant vessels and Official Patrols will be allowed to enter the course area and milling area. A person or vessel not registered with the event sponsor as a participant or assigned as Official Patrols will be considered a spectator. Spectators are only allowed inside the regulated area if they remain within a designated spectator area. All spectator vessels must be anchored or operate at a No Wake Speed within a designated spectator area. Spectators must contact the PATCOM 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.

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, duration and time of year of the power boat demonstration event, which will impact a small designated area of Breton Bay and McIntosh Run for 20 total enforcement hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the special local regulation. Moreover, the rule will allow vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the COTP or PATCOM deems it safe to do so.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes,

or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States. The temporary regulated area will be enforced for 20 hours during the power boat demonstration event. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum For Record for Categorically Excluded Actions 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.501T05–0137 to read as follows:

§ 100.501T05–0137 Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD.

(a) *Definitions.* As used in this section:

Buffer zone is a neutral area that surrounds the perimeter of the Course Area within the regulated area described by this section. The purpose of a buffer zone is to minimize potential collision conflicts with marine event participants and spectator vessels or nearby transiting vessels. This area provides separation between a Course Area and a specified Spectator Area or other vessels that are operating in the vicinity of the regulated area established by the special local regulations.

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Coast Guard Patrol Commander (PATCOM) means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Course area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a high-speed power boat demonstration area within the regulated area defined by this section.

Milling area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a milling area within the regulated area defined by this section. The area is used before a demonstration start to warm up the boats engines.

Official patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means a person or vessel registered with the event sponsor as participating in the Southern Maryland Boat Club Bash on the Bay or otherwise designated by the event sponsor as having a function tied to the event.

Spectator means a person or vessel not registered with the event sponsor as participants or assigned as official patrols.

Spectator area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this part.

(b) *Locations.* All coordinates reference Datum NAD 1983.

(1) *Regulated area.* All navigable waters of Breton Bay and McIntosh Run, immediately adjacent to Leonardtown, MD shoreline, from shoreline to shoreline, within an area bounded to the east by a line drawn along latitude 38°16′43″ N and bounded to the west by a line drawn along longitude 076°38′30″ W, located at Leonardtown, MD. The following locations are within the regulated area:

(2) *Course area.* The course area is a polygon in shape measuring approximately 940 yards in length by 228 yards in width. The area is bounded by a line commencing at position latitude 38°17′09.78″ N, longitude 076°38′22.71″ W; thence southeasterly to latitude 38°16′58.62″ N, longitude 076°37′50.91″ W; thence southwesterly to latitude 38°16′51.89″ N, longitude 076°37′55.82″ W; thence northwesterly to latitude 38°17′05.44″ N, longitude 076°38′27.20″ W; thence northeasterly terminating at point of origin.

(3) *Buffer zone.* The buffer zone surrounds the entire course area described in the preceding paragraph of this section. This area is a polygon in shape and provides a buffer around the perimeter of the course area. The area is bounded by a line commencing at the shoreline west of Leonardtown Wharf Park at position latitude 38°17′13.80″ N, longitude 076°38′24.72″ W; thence easterly to latitude 38°16′58.61″ N, longitude 076°37′44.29″ W; thence southerly to latitude 38°16′46.35″ N, longitude 076°37′52.54″ W; thence westerly to latitude 38°16′58.78″ N, longitude 076°38′26.63″ W; thence northerly to latitude 38°17′07.50″ N, longitude 076°38′30.00″ W; thence northeasterly terminating at point of origin.

(4) *Milling area.* The milling area is a polygon in shape and is bounded by a line commencing at the shoreline east of Leonardtown Wharf Park at position latitude 38°17′10.07″ N, longitude 076°38′14.87″ W; thence easterly and southerly along the shoreline to latitude 38°17′01.54″ N, longitude 076°37′52.24″ W; thence westerly terminating at point of origin.

(5) *Spectator areas*—(i) *Northeast Spectator Fleet Area.* The designated spectator area is bounded by a line commencing at position latitude 38°16′59.10″ N, longitude 076°37′45.60″ W, thence northeasterly to latitude 38°17′01.76″ N, longitude 076°37′43.71″ W, thence southeasterly to latitude 38°16′59.23″ N, longitude 076°37′37.25″ W, thence southwesterly to latitude 38°16′53.32″ N, longitude 076°37′40.85″ W, thence northwesterly to latitude 38°16′55.48″ N, longitude 076°37′46.39″ W, thence northeasterly to latitude 38°16′58.61″ N, longitude 076°37′44.29″ W, thence northwesterly to point of origin.

(ii) *Southeast Spectator Fleet Area.* The designated spectator area is bounded by a line commencing at position latitude 38°16′47.20″ N, longitude 076°37′54.80″ W, thence southerly to latitude 38°16′43.30″ N, longitude 076°37′55.20″ W, thence easterly to latitude 38°16′43.20″ N, longitude 076°37′47.80″ W, thence northerly to latitude 38°16′44.80″ N, longitude 076°37′48.20″ W, thence northwesterly to point of origin.

(iii) *South Spectator Fleet Area.* The designated spectator area is bounded by a line commencing at position latitude 38°16′55.36″ N, longitude 076°38′17.26″ W, thence southeasterly to latitude 38°16′50.39″ N, longitude 076°38′03.69″ W, thence southerly to latitude 38°16′48.87″ N, longitude 076°38′03.68″ W, thence northwesterly to latitude 38°16′53.82″ N, longitude 076°38′17.28″ W, thence northerly to point of origin

(c) *Special local regulations.* (1) The COTP Maryland—National Capital Region or PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area must immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland—National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland—National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter a designated Spectator Area or must pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland—National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland—National Capital Region at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz) or the PATCOM on Marine Band Radio, VHF–FM channel 16 (156.8 MHz).

(5) Only participant vessels and official patrol vessels are allowed to enter the course area and milling area.

(6) Spectators are only allowed inside the regulated area if they remain within the designated spectator area. All spectator vessels must be anchored or operate at a No Wake Speed within a designated spectator area. Official patrol vessels will direct spectator vessels to the spectator area. Spectators must contact the Coast Guard Patrol Commander 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.

(7) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event dates and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(e) *Enforcement periods.* This section will be enforced from 8 a.m. to 6 p.m. on October 5, 2019, and from 8 a.m. to 6 p.m. on October 6, 2019.

Dated: May 3, 2019.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2019–09494 Filed 5–8–19; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2018–8]

Noncommercial Use of Pre-1972 Sound Recordings That Are Not Being Commercially Exploited; Correction

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule; correction.

SUMMARY: The U.S. Copyright Office is correcting a final rule that appeared in the **Federal Register** on April 9, 2019. The document incorrectly numbered paragraphs governing the filing fees of certain documents that can be filed with the Copyright Office.

DATES: Effective May 9, 2019.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at *regans@copyright.gov* or Anna Chauvet, Associate General Counsel, by email at *achau@copyright.gov.* Each can be contacted by telephone by calling (202) 707–8350.

SUPPLEMENTARY INFORMATION: Effective May 9, 2019, in rule document 2019–06883 at 84 FR 14242 in the issue of April 9, 2019, on page 14255, in the third column, amendatory instruction 2 is corrected to read as follows:

■ 2. Amend § 201.3 by:

■ a. Removing the second paragraph (c)(23).

■ b. Revising paragraphs (c)(20) through (23).

■ c. Adding paragraphs (c)(24) and (25).

The revisions and additions read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

Registration, recordation and related services	Fees ($)
* * * * * * *	
(20) Schedule of pre-1972 sound recordings, or supplemental schedule of pre-1972 sound recordings (single sound recording)	75
(i) Additional sound recordings (per group of 1 to 100 sound recordings)	10
(ii) [Reserved]	
(21) Removal of pre-1972 sound recording from Office's database of indexed schedules (single sound recording)	75
(22) Notice of noncommercial use of pre-1972 sound recording	50
(23) Opt-out notice of noncommercial use of pre-1972 sound recording	50
(24) Issuance of a receipt for a section 407 deposit	30
(25) Removal of PII from Registration Records:	.....
(i) Initial request, per registration record	130
(ii) Reconsideration of denied requests, flat fee	60

* * * * *

Dated: May 2, 2019.

Karyn A. Temple,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2019–09555 Filed 5–8–19; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0290; FRL–9993–36–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Regulatory Amendments Addressing Reasonably Available Control Technology Requirements Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking action on a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania). This revision consists of regulatory amendments intended to meet certain reasonably available control technology (RACT) requirements under the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). EPA is approving most parts of the Pennsylvania SIP revision as meeting RACT requirements under the Clean Air Act (CAA), while conditionally approving certain provisions, based upon Pennsylvania's commitment to submit additional enforceable measures that meet RACT. This action is being taken in accordance with the requirements of the CAA.

DATES: This final rule is effective on June 10, 2019. Pennsylvania must meet the conditions of this approval by May 9, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0290. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schulingkamp, Planning and Implementation Branch (3AD30), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2021. Mr. Schulingkamp can also be reached via electronic mail at or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 14, 2018 (83 FR 11155), EPA published a notice of proposed rulemaking (NPRM) for a SIP revision from the Commonwealth of Pennsylvania. In the NPRM, EPA proposed to partially conditionally approve and partially approve a Pennsylvania RACT SIP revision for the 1997 and 2008 8-hour ozone NAAQS. The formal SIP revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) on May 16, 2016.

RACT requirements apply to any ozone nonattainment areas classified as Moderate or higher (Serious, Severe or Extreme) under CAA sections 182(b)(2) and 182(f). Section 184(b)(1)(B) of the CAA also applies RACT to all areas located within ozone transport regions established pursuant to section 184 of the CAA. The entire Commonwealth of Pennsylvania is part of the Ozone Transport Region (OTR) established under section 184 of the CAA and thus is subject statewide to the RACT requirements of CAA sections 182(b)(2) and 182(f), pursuant to section 184(b). The May 16, 2016 SIP submittal intends to satisfy sections 182(b)(2)(C), 182(f), and 184 of the CAA for both the 1997 and 2008 8-hour ozone NAAQS for all major nitrogen oxides (NOx) and volatile organic compound (VOC) sources in Pennsylvania not subject to control technique guidelines (CTG) (*i.e.,* VOC non-CTG sources), except glass melting furnaces, ethylene production plants, surface active agents manufacturing, and mobile equipment repair and refinishing.

II. Summary of SIP Revision and EPA's Proposed Actions

The May 16, 2016 Pennsylvania SIP revision includes the Pennsylvania regulations in 25 Pa. Code sections 129.96–129.100 titled ''Additional RACT Requirements for Major Sources of NOx and VOCs'' (the RACT II Rule) and amendments to 25 Pa. Code section 121.1, including related definitions, to be incorporated into the Pennsylvania SIP. These regulatory amendments were adopted by PADEP on April 23, 2016 and effective on the same date upon publication in the Pennsylvania Bulletin. The May 16, 2016 SIP revision was submitted to satisfy certain CAA RACT requirements under both the 1997 and 2008 8-hour ozone NAAQS for specific source categories.

The RACT II Rule applies statewide to existing major NO_X and/or VOC sources

in Pennsylvania, except those subject to other Pennsylvania regulations, as specified in 25 Pa. Code 129.96(a)–(b).[1] The RACT II Rule exempts all VOC source categories for which PADEP had adopted CTG RACT regulations at the time the RACT II Rule was finalized, as well as three non-CTG VOC source categories: (1) Ethylene production plants, (2) surface active agents manufacturing, and (3) mobile equipment repair and refinishing; and glass melting furnaces as major NOx sources. In the NPRM, EPA proposed to find that the applicability requirements of 25 Pa. Code section 129.96 are necessary to implement the RACT requirements within the RACT II Rule.

The RACT II Rule requirements apply to any emissions unit or process at an affected major source having a potential to emit (PTE) of 1 ton per year (TPY) or more of NO_X and/or VOC. In the context of the rule, existing major sources are those already in existence as of July 20, 2012 or any major sources installed or modified after July 20, 2012, which became a major source before January 1, 2017. The RACT II Rule establishes a compliance date of January 1, 2017, as provided in paragraphs in 129.97(a) and 129.99(d)(4), with some exceptions.

Section 129.97 of the RACT II Rule establishes NO_X and VOC emission limits or operational requirements on certain types of emissions units in the affected major sources which Pennsylvania presumes to meet RACT, thus referred to in the rule as presumptive RACT.

Affected emissions units include combustion units, process heaters, combustion turbines, stationary internal combustion engines, cement kilns, municipal waste combustors, and municipal solid waste landfills. In the NPRM, EPA proposed to find that the presumptive requirements of 25 Pa. Code section 129.97 represent RACT for the NO_X and VOC source categories affected by these provisions.

Affected major sources subject to the presumptive requirements of 25 Pa. Code section 129.97 that cannot comply with the applicable presumptive NO_X limits for any given emissions units, may choose one of two alternative compliance options to establish RACT. Such sources may either propose an alternative NO_X emissions limit based on averaging NO_X emissions from multiple sources, under 25 Pa. Code section 129.98, or else propose an alternative source-specific emission NO_X or VOC limit or RACT requirement, under 25 Pa. Code section 129.99. In the NPRM, EPA proposed to find that 25 Pa. Code section 129.98 is not sufficient to address RACT for sources seeking averaging, without the specific NO_X averaging provisions for any affected sources being submitted to EPA for SIP approval. Also, in the NPRM, EPA proposed to find that 25 Pa. Code section 129.99 is not approvable by itself without further information on specific sources, along with the source-specific limits being submitted to EPA for SIP approval. By letter dated September 22, 2017, PADEP committed to address the problems with sections 129.98 and 129.99, as later identified in the NPRM, by submitting any facility-specific terms and conditions regarding emissions averaging to EPA as a source specific SIP revision and submitting all source-specific RACT determinations under section 129.99 to EPA as SIP revisions within 12 months of EPA's final approval. Therefore, EPA proposed to conditionally approve the provisions in 25 Pa. Code sections 129.98 and 129.99.

25 Pa. Code section 129.100 of the RACT II Rule establishes compliance demonstration and recordkeeping requirements for affected sources. Specific monitoring and testing requirements are established for sources complying with presumptive RACT requirements under section 129.97. Recordkeeping requirements are established under section 129.100(d) for any affected sources under the RACT II Rule. In the NPRM, EPA proposed to find that the compliance demonstration requirements of 25 Pa. Code section 129.100 are necessary to implement the RACT requirements of section 129.97. Also, additional compliance demonstration requirements for NO_X averaging or source-specific RACT alternative limits will be established by PADEP or the local permitting agency on a source-specific basis, in accordance with sections 129.98 and 129.99, respectively, and consistent with section 129.100.

Any definitions related to the RACT II Rule are codified in 25 Pa. Code section 121.1. The definitional changes in 25 Pa. Code section 121.1 are consistent with requirements in the RACT II Rule and thus we proposed to approve under CAA section 110. EPA proposed that the amended provisions in 25 Pa. Code section 121.1 and the adopted provisions in 25 Pa. Code sections 129.96, 129.97, 129.100 of the RACT II Rule are approvable, in accordance with requirements in CAA sections 110, 172, 182, and 184, and meet RACT for the affected major sources of non-CTG VOC and major sources of NO_X for both the 1997 and 2008 8-hour ozone NAAQS. EPA proposed conditional approval of 25 Pa. Code sections 129.98 and 129.99 for the reasons stated in this section and in the NPRM in more detail.

III. Public Comments and EPA's Reponses

During the comment period, EPA received relevant comments from eight separate entities: The Connecticut Department of Energy and Environmental Protection (CTDEEP), Friends of Pennsylvania (FOP), GenOn Energy, Inc. (GenOn), the Maryland Department of Environment (MDE), the State of New Jersey Department of Environmental Protection (NJDEP), the New York State Department of Environmental Conservation (NYDEC), Olympus Power, LLC (Olympus Power), and Sierra Club (SC). EPA also received twelve irrelevant or non-adverse comments from anonymous sources which will not be addressed here. The relevant comments and EPA's response are discussed in this section of this rulemaking action.

A. Presumptive RACT

Comment 1: Several commenters argue that PADEP's presumptive limits for certain source categories do not represent RACT. The commenters state that more stringent NO_X RACT limits have been adopted by other states for coal-fired utility boilers, such as in New York and Connecticut's rules. Commenters also suggest there are more stringent limits adopted for combustion turbines and stationary internal combustion turbines.

Response 1: EPA disagrees with the commenters that PADEP's presumptive NO_X RACT limits are not adequate as RACT. In making RACT determinations, EPA has encouraged states to rely on current EPA guidance, including CTGs and Alternative Control Techniques (ACTs),[2] and any other information available at the time of development of the RACT SIP. *See* 78 FR 34178 at 34192. States have the discretion to adopt more stringent limits as RACT for similar sources when considering what emissions reductions of NO_X and VOC are necessary for timely attainment of the ozone NAAQS (*i.e.,* beyond RACT reductions).

Based on existing EPA guidance, EPA determined that the RACT II Rule's presumptive requirements generally represent emission limitations

[1] In the context of the RACT II Rule, the terms ''major NO_X emitting facility'' and ''major VOC emitting facility,'' as defined in 25 Pa Code section 121.1, are used to refer to major stationary sources.

[2] EPA uses CTGs to presumptively define VOC RACT while ACTs describe available control technologies and their respective cost effectiveness.

achievable through implementation of reasonably available control technologies considering technical and economic feasibility. In addition, EPA reviewed NO_X emissions limits in effect in adjacent OTR states for certain source categories addressed by Pennsylvania's rule for comparison purposes. EPA concluded that PADEP's presumptive limits are comparable to other states' limits, denoting that while some states may have adopted more stringent limits for similar categories, other states have also adopted less stringent controls. However, nothing in the CAA requires Pennsylvania's RACT limits to be as stringent as neighboring states' limits.

Some states may have adopted more stringent controls for similar source categories given needs for ozone reduction to achieve attainment within their particular state or to go ''beyond RACT'' for the state's internal reasons. For instance, it is also worth noting that Connecticut's 22a–174–22e rule established NO_X presumptive limits that would become effective in two phases on June 1, 2018 for 2008 RACT requirements and June 1, 2022; and EPA only considered the June 1, 2018 control requirements under this regulation to be adequate and needed to meet 2008 ozone RACT.[3] EPA continues to find that Pennsylvania's presumptive NO_X limits are reasonable for the source categories evaluated for the reasons described in detail in our NPRM and TSD. EPA's determination considered for each source category the emission rates achieved by different NO_X control technologies as discussed in the guidance documents and summarized in the TSD, and limits that other states have adopted to meet RACT.

In addition, PADEP received similar comments from Connecticut and New Jersey on its proposed RACT II Rule, asserting that each state had adopted more stringent presumptive NO_X limits for coal-fired boilers than Pennsylvania. In its response, PADEP asserted that it ''reviewed and considered RACT regulations from various states when evaluating what constitutes reasonably available control technology for the types of sources affected by the final rulemaking.'' PADEP stated that ''[s]ource categories in Pennsylvania are diverse, with numerous sources having varying characteristics differing from those of the other Mid-Atlantic States,'' and that it ''evaluated its source categories and determined the presumptive RACT requirements to be adequate.'' Further, after considering comments received, PADEP determined that the NO_X limits for coal-fired boilers with a rated heat input equal to or greater than 250 million British Thermal Units (MMBTU) per hour (MMBTU/hr) could be revised to reflect more stringent RACT. PADEP revised the presumptive NO_X limit from coal-fired boilers that are circulating fluidized bed combustion units (CFBs) from 0.20 pounds per MMBTU (lbs/MMBTU) to 0.16 lbs/MMBTU. PADEP also adopted additional presumptive RACT requirements for coal-fired boilers with selective non-catalytic reduction (SNCR) and selective catalytic reduction (SCR), established in subparagraph 129.97(g)(1)(vii) and 129.97(g)(1)(viii). *See* PADEP's Response to Comments Document, Comments #61 and #75.[4] Thus, EPA believes that PADEP considered and addressed technically and economically feasible rates for RACT as well as considered rates established for RACT in neighboring states in its development of the presumptive limits for the RACT II Rule.

EPA recognizes that other states have adopted more stringent RACT standards for source categories similar to those in Pennsylvania. However, that fact alone is not sufficient to conclude that PADEP's presumptive limits are not acceptable or reasonable as RACT. States have the discretion to adopt more stringent limits as RACT for similar sources when considering the emissions reductions of NO_X and VOC necessary for timely attainment of the ozone NAAQS, or to adopt ''beyond RACT'' limits for their own internal reasons. RACT requirements for ozone do not require Pennsylvania to adopt the same level of control as the most stringent state in the OTR or country; what is instead required is emission limitations reflecting what is the lowest achievable rate considering technological and economic feasibility.[5] Each state should set RACT limits considering what it determines reasonable for its sources. In general, the actual cost, emission reduction, and cost-effectiveness levels that an individual source will experience in meeting the RACT requirements will vary from unit to unit and from area to area. These factors will differ from unit to unit because the sources themselves vary in age, condition, and size, among other considerations and, in many cases, will differ from state to state.[6] EPA believes that PADEP determined presumptive limits based on its evaluation of technical and economic feasibility of controls and determination of what is reasonable for each source category.[7]

Comment 2: One commenter argues that PADEP's presumptive limits for municipal waste combustors (MWCs) do not represent RACT for several reasons. The commenter argues that for mass burn waterwall type MWCs using SNCR as a control, states have adopted more stringent NO_X limits of 150 parts per million by volume, dry basis (ppmvd). Also, the commenter states that neither PADEP nor EPA considered the NO_X RACT limit of 150 ppmvd that was adopted by NJDEP. The commenter argues that Pennsylvania should have established NO_X presumptive limits for MWCs for each type of combustor technology, which is how states and EPA typically regulate MWCs considering that NO_X emissions vary by each technology.

Response 2: EPA disagrees with commenter's assertion that PADEP's presumptive NO_X RACT limit of 180 ppmvd for MWC is not adequate as RACT. PADEP's NOx presumptive limit of 180 ppmvd at 7 percent (%) oxygen (O_2) for MWC is reasonable as RACT, based on NO_X emission rates established by other states' regulations and in EPA's New Source Performance Standards (NSPS) at 40 CFR part 60, subparts Cb and Eb. In the NSPS, EPA has established NO_X limits for MWCs ranging from 150 to 250 ppmvd at 7% O_2 after considering the best system of emissions reduction (BSER). Also, as noted in the TSD, OTR states have adopted NO_X limits for MWCs ranging from 120 to 372 ppmvd at 7% O_2, with different averaging periods. PADEP's presumptive RACT limit for MWCs is comparable to EPA's most stringent NO_X limit for MWCs in the NSPS and is comparable to the most stringent limits adopted by other states given that factual scenarios regarding technical and economic feasibility for controls for MWCs can vary amongst states. EPA has no reason to believe that Pennsylvania did not consider the existing controls at the MWCs, such as SNCR, when determining RACT. For large MWCs with SNCR, other states have established average daily NO_X limits as

[3] *See* 82 FR 16776. In addition, EPA notes that Connecticut has areas in more severe nonattainment with the ozone NAAQS than Pennsylvania and as such may need more NO_X reductions.

[4] PADEP's Response to Comments Document is available in the docket for this rulemaking action at *www.regulations.gov,* Docket #EPA–R03–OAR–2017–0290, document #EPA–R03–OAR–2017–0290–0004 (hereafter referred to as Docket item #0004).

[5] *See* December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, ''Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,'' and also 44 FR 53762; September 17, 1979.

[6] *See* EPA's March 16, 1994 Memorandum ''Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT)''.

[7] *See* 46 PaB 2037.

high as 250 ppmvd; thus, Pennsylvania's limit of 180 ppmvd is more stringent for sources with SNCR than some states. Finally, EPA does not believe that MWCs must be exclusively regulated by type of combustor. In EPA's MWC regulations for NO_X emission limits, EPA set limits according to the type of combustor and also set a single NO_X limit that applies regardless of combustor type. *See* 40 CFR part 60, subparts Cb and Eb.

In determining RACT, states should also consider any information received during the public comments. EPA reviewed the comments received by PADEP during the state's public comment period on the RACT II Rule. PADEP initially proposed that MWCs meet RACT by complying with the limits EPA established in the NSPS at 40 CFR part 60, subpart Cb or Subpart Eb, which range from 180 to 250 ppmvd at 7% O_2. In response to comments, PADEP re-evaluated NO_X emissions data from its MWCs and concluded that a NO_X emission limit of 180 ppmvd at 7% O_2, the lowest limit in the NSPS, was more representative of actual emissions achieved across the fleet of MWCs in Pennsylvania, and therefore revised the final rule to adopt this NO_X limit as presumptive RACT. *See* PADEP's Response to Comments Document, Docket item #0004, Comments #121. Thus, EPA believes Pennsylvania considered for MWCs technical and economic feasibility in setting lowest achievable emission rate for MWCs by considering what was achieved by MWCs within the Commonwealth and thus EPA finds the presumptive RACT rate reasonable.

Finally, while EPA recognizes that other states have adopted more stringent RACT standards for MWCs, that fact alone is not sufficient to conclude that PADEP's presumptive limits are not acceptable or reasonable as RACT as previously discussed. States have the discretion to adopt more stringent limits as RACT for similar sources considering the level of emissions reductions of NO_X and VOC necessary to timely attain the ozone NAAQS (*i.e.,* beyond RACT reductions). Requiring Pennsylvania to adopt the same level of control as the most stringent state is not always necessary to satisfy the statutory mandate for RACT. EPA continues to find that Pennsylvania's presumptive NO_X limit for MWCs is reasonable and represents RACT.

Comment 3: Several commenters state that coal-fired boilers with SCR in Pennsylvania are capable of achieving lower rates than 0.12 lbs/MMBTU. One commenter recommends that EPA disapprove the presumptive limit for coal-fired boilers with SCR and impose a limit of 0.09 lbs/MMBTU, while another commenter proposes a limit of 0.07 lbs/MMBTU. Both commenters reference NO_X actual emissions data included as part of the comments and assert that NO_X emission rates lower than 0.12 lbs/MMBTU have been historically achieved by units in Pennsylvania. One commenter included NO_X emissions data that represents the ''best performing ozone season emissions rate'' (in lbs/MMBTU) for 13 coal-fired boilers in Pennsylvania equipped with SCR during 2005 to 2017. The second commenter provided NO_X emissions data for monthly average NO_X rates lower than 0.017 lbs/MMBTU during 2005 to 2017 for 10 coal-fired boilers in Pennsylvania equipped with SCR.

Response 3: EPA disagrees that a more stringent NO_X RACT limit than 0.12 lbs/MMBTU is needed for Pennsylvania to meet RACT for coal-fired boilers with SCR, based on the data provided and absent any other technical justification to support a more stringent limit. The NO_X emissions data sets provided by the commenter are not sufficient to conclude that a lower NO_X emissions rate, such as 0.07 or 0.09 lbs/MMBTU, is consistently achievable or sustainable to make Pennsylvania's conclusions unreasonable. RACT involves an evaluation of what is technically and economically feasible for sources; thus, consideration of whether emission limits are consistently achievable with controls that are cost effective and under consideration is a reasonable consideration for Pennsylvania. EPA acknowledges that historically, some individual coal-fired electric generating units (EGUs) with SCR in Pennsylvania have been able to achieve lower rates than 0.12 lbs/MMBTU as indicated in the commenters' data. However, in evaluating fleet-wide NO_X emissions and determining an adequate achievable NO_X RACT emissions limit for all units in Pennsylvania, the lowest historical rate at any particular unit at a specific point in time may not be a rate that can be consistently achieved by other units. EPA does not require RACT limits to be the lowest achievable emissions rate, but the lowest achievable emission rates considering technical and economical limitations.

In previous RACT guidance to states, EPA estimated that coal-fired boilers with SCR are expected to generate NO_X emissions rates ranging from 0.10 to 0.25 lbs/MMBTU, depending on the type of boiler and whether the boiler is equipped or not with additional combustion controls.[8] Also, as part of the 2016 Cross-State Air Pollution Rule (CSAPR) Update, EPA determined that 0.10 lbs/MMBTU is an achievable NO_X emissions rate *during ozone season* for coal-fired electric generating units (EGUs) with SCR.[9] As part of the CSAPR Update, EPA analyzed NO_X reduction potential and corresponding NO_X ozone season emissions budgets at utility boilers (*i.e.,* EGUs) based on NO_X emissions rates that can be consistently achieved for the units with SCRs that were not currently being optimized or which were currently idled at the time of EPA's analysis (*i.e.,* 2016). To determine the NO_X emissions rate that could be consistently achieved, EPA evaluated coal-fired NO_X ozone season emission data for EGUs from 2009 through 2015 and calculated an average NO_X ozone season emissions rate across the fleet of coal-fired EGUs with SCR for each of these seven years. The 0.1 rate represents the third lowest fleet-wide average coal-fired EGU NO_X ozone season emissions rate for coal-fired EGUs with SCR. It is worth noting that EPA considered and rejected the lowest or second lowest ozone season NO_X rates, because it determined that these rates may reflect new SCR systems and/or existing SCR systems with all new components (*e.g.,* due to simultaneous replacement of multiple layers of catalyst rather than routine replacement of a single layer).[10] Therefore, reliance alone on the lowest historical emissions rate to evaluate the feasibility and cost effectiveness of controls would likely overestimate the emissions reductions and, consequently, underestimate the costs to restart idled or unoptimized controls because some EGUs have significantly curtailed their hours of operation, for various reasons, since the time when the low levels of NO_X emissions were achieved. Furthermore, SCR controls can become less effective at NO_X removal as they age and may not be as efficient as when first installed, so the lowest historically achieved rate is not always technically feasible. It is not unreasonable for Pennsylvania to have considered a slightly different NO_X

[8] EPA's ACT Document ''NO_X Emissions Document ''NO_X Emissions from Utility Boilers'' (EPA–453/R–94–023; March 1994). It is possible that further technological advancements may have been proven to result in lower NO_X emissions levels than those reported in EPA's ACT.

[9] *See* 81 FR 74504, 74543 (October 26, 2016) (addressing interstate transport of ozone for 2008 ozone NAAQS).

[10] Data from these new systems are not representative of ongoing achievable NO_X rates considering that some SCR systems may have some broken-in components and routine maintenance schedules entailing replacement of individual components.

emission rate for RACT considering such technological and economic feasibility issues than what EPA has deemed achievable as an ozone season-only NO_X rate (0.10 lbs/MMBTU), when averaging over a shorter time period such as 30 days.

Even when considering lowest achievable rates, the data sets provided by the commenters are not sufficient to support the assertion that a NO_X rate of 0.07 or 0.09 lbs/MMBTU, respectively, or in fact any other rate lower than 0.12 lbs/MMBTU, is consistently achievable in Pennsylvania. The first commenter, the Sierra Club, only considered data for the limited instances where the lowest NO_X rates have been achieved and did not consider any other periods during the 2003 to 2012 timeframe.[11] For example, in Table 2 of Sierra Club's comments, the commenter presented the data from multiple units at multiple facilities on a monthly basis. The commenter then appeared to sort the data in terms of average NO_X rate from the lowest rate to the highest rate but limited the data to those units and months where the average NO_X rate was less than or equal to 0.07 lbs/MMBTU. By doing this, the commenter does not take into account the months where a unit is operating at a rate above 0.07 lbs/MMBTU skewing the data in a way that tends to show these units are able to comply with a lower emissions limit at all times. Furthermore, by sorting the data in this way, the commenter obscures important information such as which facilities and units were evaluated, and the range of years or months evaluated; thus, the incomplete data set submitted by the commenter was not sufficient for EPA to determine that Pennsylvania's RACT is not permissibly or reasonably set at 0.12 lb/MMBtu.

The second commenter, the MDE, provided the best performing ozone season NO_X emissions rates during 2005 to 2017, but only considered emissions rates of certain facilities and certain units that were specifically lower than 0.09 lbs/MMBTU. The NO_X rates provided by the commenter were ozone season averages, not 30-day rolling averages. PADEP's coal-fired emission limit of 0.12 lbs/MMBTU is required on a 30-day rolling basis and is applicable on a continuous basis throughout the year (not just during ozone season). Therefore, the data provided by MDE is not comparable to the form of Pennsylvania's RACT emission limitation.

Finally, states must establish presumptive NO_X emission limits for RACT that are reasonably achievable for the entire fleet of units within any source category. Both commenters only included data below certain thresholds, so only some of the data from these units was shown, making it hard to judge the overall representativeness of the data. In its SIP revision, PADEP confirmed that the presumptive RACT NO_X limits for coal-fired boilers ''are achievable and sustainable during the expected life of the affected unit using technologies that are both technically and economically feasible.'' [12] Absent any conflicting technical information, EPA continues to believe that a NO_X emissions rate of 0.12 lbs/MMBTU on a 30-day rolling average, year-round, is reasonable and consistently achievable by Pennsylvania's coal-fired boilers with SCR, representative of SCR operation, and adequate for representing RACT for these units based on Pennsylvania's analysis.

Comment 4: One commenter contends that EPA cannot approve the provision in 25 Pa Code section 129.97(g)(1)(viii) applicable to coal-fired boilers with SCR, because there is no adequate basis for the minimum SCR operating temperature and the minimum operating temperature of 600 °F is contradicted by facts concerning SCR operation and inlet temperature. The commenter argues that neither EPA nor Pennsylvania have justified that a temperature-based exemption is necessary or that 600 °F is the correct threshold for such exception. The commenter states that EPA did not mention this ''loophole'' in its proposal. The commenter also argues that EPA's allowance of a temperature exemption is in direct contrast to prior actions by EPA, in which EPA recognized that a minimum SCR operating temperature varies significantly between EGUs and required utilities to supply more technical data to support any accommodation of this parameter. *See* 81 FR 21735 (April 13, 2016).

Response 4: EPA recognizes that neither Pennsylvania nor EPA explained in detail why the minimum SCR temperature exemption in 127.97(g)(1)(viii) for coal-fired boilers is adequate for RACT. However, EPA disagrees that our determination to accept this exemption as part of Pennsylvania's presumptive limits for coal-fired combustion units is arbitrary or capricious. As proposed in the NPRM, EPA finds that Pennsylvania's determination to limit the application of the SCR limit when inlet temperature is less than 600 °F is consistent with the optimum operating temperature of SCRs used generally by coal-fired boilers and reasonable as part of the presumptive RACT limitation. The temperature at the inlet to the SCR provides a good indication of catalytic reduction performance, because it indicates that the gas stream is at sufficient temperature to initiate reduction of NO_X on the catalyst. EPA finds that the NO_X reduction reaction of an SCR is effective only within a given temperature range. If the inlet temperature (*i.e.,* of the process gas stream) is too high, it may cause NO_X generation in the SCR rather than NO_X reductions. (*Reference: https://www3.epa.gov/ttnchie1/mkb/documents/B_15a.pdf*). The use of a catalyst in the SCR process lowers the temperature range required to maximize the NO_X reduction reaction. At temperatures below the specified range, the reaction kinetics decrease, and ammonia passes through the SCR (ammonia slip), but there is little effect on nitrous oxide (N_2O) formation. At temperatures above the specified range, nitrous oxide (N_2O) formation increases and catalyst sintering and deactivation occurs, but little ammonia slip occurs. It has been proven that for the majority of commercial catalysts (metal oxides), the typical operating temperatures for the SCR process range from 480 °F to 800 °F (250–430 °C). The rate of NO_X removal increases with temperature up to a maximum between 700 °F and 750 °F (370–400 °C). (*Reference: https://www.epa.gov/sites/production/files/2017-12/documents/scrcostmanualchapter7thedition_2016revisions2017.pdf*; *see* Reference [46].)

In addition, EPA noted in its response to comments on the May 2016 updates to the Cost Control Manual for the SCR chapter that, while the temperature of 480 ° to 800 °F is a fairly wide range and is dependent on catalyst type, this range is not reflective of general optimum range. EPA concluded that 480 ° to 800 °F is an ''operating'' range and that 700 ° to 750 °F was an optimum temperature range.[13] It has been proven that the NO_X removal efficiency decreases more drastically when temperatures are lower than the optimal operating range; at 600 °F, the expected NO_X removal efficiency of an SCR has already decreased to 77% and at 550 °F the removal efficiency drops to 63%. Therefore, even if Pennsylvania were to lower the

[11] *See* Tables 2 and 3 of Sierra Club's comments, dated April 13, 2018.

[12] *See* PADEP's Response to Comments Document, Docket item #0004, Comment #10, Page 23.

[13] *See* EPA, Air Pollution Cost Control Manual, Section 4—NO_X Controls, Chapter 2 at section 2.2.2. May 2016, updated November 2017.

temperature at which a SCR was to begin operating by 50 °F, the reductions achieved would be only slightly better than those achieved with Low NO_X burners with Overfired Air (40–60% reduction) which is already required to be installed by the existing Pennsylvania SIP. Thus, EPA finds Pennsylvania's selection of 600 °F requirement for coal-fired boiler RACT reasonable based on noted efficiencies with SCRs at such temperatures and based on technical and economic considerations from use of additional catalyst to achieve diminishing NO_X removal.

In the NPRM, EPA recognized that the SCR limit is not applicable at all times, given the temperature condition provided. Nevertheless, EPA disagrees that this qualifies as a ''loophole'' of the regulation. As discussed in the TSD in support of our proposed action, any affected boiler with SCR or SNCR is also required to comply at all times with the boiler type limits in section 129.97(g)(1)(vi), which in practice would be applicable in any instances where the SCR or SNCR is not in operation. For instance, a coal-fired boiler that has an SCR in place would be subject in practice to two sets of RACT NO_X limits: (1) The SCR limit of 0.12 lbs/MMBTU when the inlet temperature to the control is equal to or greater than 600 °F; and (2) the boiler type limit (0.16, 0.35, or 0.40 lbs/MMBTU depending on type of boiler) at any other times when the inlet temperature to the control is less than 600 °F. EPA finds that this control approach is practical and acceptable to satisfy RACT for boilers with SCR and SNCR, as it ensures applicability of RACT year-round, while requiring the lowest NO_X emissions limit considering the technical feasibility of existing NO_X controls. As stated in our TSD for the NPRM, in our engineering judgment and based upon acknowledged technical limitations of SCR and SNCR, EPA agrees with PADEP's determination that SCR or SNCR cannot result in lower NO_X emission rates at those lower operating temperatures. *See* page 21 of the TSD.

Comment 5: The commenter claims that section 129.97(g)(1)(viii) of the RACT II Rule has allowed Pennsylvania utilities since 2017 to use the minimum temperature-exemption for coal-fired boilers with SCR to intentionally avoid operating controls at night. The commenter provides NO_X emissions and heat input rating from one particular EGU coal-fired boiler, Cheswick, and alleges that it depicts a typical practice and typical emission rate from the coal-fired EGU boilers with SCR in Pennsylvania subject to the RACT II Rule.

Response 5: As discussed in the prior response, the RACT II Rule's temperature exception in section 129.97(g)(1)(viii) does not allow coal-fired boilers equipped with SCR to avoid all NO_X controls. Although any coal-fired boiler with SCR is not subject to the 0.12 lbs/MMBTU RACT emission limitation when inlet temperature is below 600 °F, these boilers must still comply at all times with the presumptive limits in section 129.97(g)(1)(vi), which vary based upon the furnace configuration or boiler type.

The Cheswick unit is a tangentially coal-fired boiler equipped with low NO_X burners (LNB) with separated overfire air (SOFA) and SCR. As such, the unit is required to comply with two presumptive NO_X limits under the RACT II Rule: 0.12 lbs/MMBTU when inlet temperature to the SCR is above 600 °F, and 0.35 lbs/MMBTU at all other times. *See* section 129.97(g)(1)(vii) and (vi)(B). EPA notes that a reduction of heat input at night for Cheswick is not unusual for a coal-fired EGU boiler as the reduction in heat input can be driven by lower demand for electricity; thus reduced heat input could lead to temperatures below 600 °F and below what is optimal for SCR operation.

Comment 6: One commenter claims Pennsylvania's rule does not require a reporting requirement for the exhaust temperature of units equipped with SCR, and that without this information the public will not be able to know whether or not such units are complying with the applicable emission limits. The commenter claims the lack of this reporting requirement renders calculating compliance with the 30-day average difficult and, overall, violates the CAA's requirement that RACT be enforceable.

Response 6: EPA disagrees with the commenter. Although PADEP's RACT II Rule does not establish RACT-specific reporting requirements for each source category, Pennsylvania has the generic recordkeeping requirements at section 129.100(d) requiring that a source subject to sections 129.96–129.99 ''keep records to demonstrate compliance with §§ 129.96–129.99 that include sufficient data and calculations to demonstrate that the requirements of §§ 129.96–129.99 are met.'' *See* 25 Pa Code 129.100(d). EPA finds that the compliance demonstration requirements of 129.100(d) require sources to keep sufficient records to demonstrate meeting RACT limits. PADEP may establish more specific requirements for individual sources, as needed, through the operating permit process.

Comment 7: One commenter argues that EPA should disapprove the PA RACT II Rule's provision in section 129.97(g)(1)(ix) concerning coal-fired boilers with SNCR, based on the inadequate information provided as part of the ''illegal and improperly submitted'' supplemental documentation. The commenter asserts that PADEP's supplemental documentation does not justify why PADEP did not impose an emission limitation for coal-fired boilers in Pennsylvania, but simply identifies the six Circulating Fluidized Bed (CFB) boilers with SNCR in Pennsylvania subject to this requirement. Commenter asserts that in an attempt to support that the 0.16 lbs/MMBTU presumptive limit for any coal-fired CFB boiler is also adequate for coal-fired boilers with SNCR, PADEP argues that CFB boilers without SCR have been able to achieve lower NO_X emission reductions than CFBs with SNCR. Commenter also points to several EPA guidance documents supporting that additional reductions can be achieved at EGU boilers through operation of SNCR.

Response 7: EPA disagrees with the commenter regarding the RACT emission limitation for coal-fired boilers with SNCR. As explained in the NPRM and TSD, such boilers are subject to emission limitations (including a numeric limitation and a requirement to operate SNCR) that Pennsylvania set considering technical and economic feasibility. Thus, EPA finds these emission limitations reasonable as explained in more detail in the NPRM and TSD. Sufficient information is available to support this conclusion—all coal-fired boilers with SNCR are required to comply with both the numeric emission limitations of section 129.97(g)(1)(vi) and the work practice standard under 129.97(g)(1)(ix). In addition, Pennsylvania considered limits from other states and the current limits in place at these sources. Furthermore, EPA does not agree that the supplemental September 2017 submittal from PADEP is illegal or was improperly submitted. PADEP's September 26, 2017 submittal included Pennsylvania's commitment to submit any facility-wide or system-wide NO_X averaging plans to EPA for SIP approval and to submit to EPA for SIP approval any permits issued under section 129.99 to support the conditional approval of 129.98 and 129.99 for the SIP. This commitment in Pennsylvania's supplement meets requirements for a commitment under CAA section 110(k)(4). The commenter has not provided sufficient information as to

why Pennsylvania's supplemental information is ''illegal.'' *See* Response to Comment #34. Nevertheless, EPA has sufficient information in the TSD and in the docket generally to support our conclusion that Pennsylvania's RACT II Rule is reasonable including the RACT limitation for coal-fired boilers with SNCR as the Rule includes a work practice requirement as an emission limitation (as the Rule requires operation of the SNCR) as well as a numeric restriction on emissions as an emission limitation in section 129.97(g)(1)(vi). *See also* Response to Comment #8.

Comment 8: Commenters allege that EPA cannot approve the presumptive provision contained in 129.97(g)(1)(ix) for coal-fired boilers with SNCR because the provision lacks a numeric emission limit. One commenter added the rule also failed to have a requirement to optimize the existing SNCR control. Another commenter argued that Pennsylvania should have been able to set a numeric emission limit because such limits exist for other similar units with SNCR in place and a numeric emission limit is required to meet EPA's definition of ''RACT.''

Response 8: RACT generally requires the establishment of ''emission limitations.'' Since the 1970's, EPA has consistently defined ''RACT'' as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.[14] However, EPA disagrees that an emission limitation is required to be *numeric* to meet RACT for all source categories. CAA section 302(k) defines an emissions limitation as ''a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under this chapter.'' The requirement of 25 Pa. Code 129.97(g)(1)(ix), to operate the system (*i.e.,* coal-fired boilers with SNCR) with the injection of reagents, qualifies as a work practice standard or an operational requirement; thus, the provision meets the definition of ''emission limitation'' under CAA section 307. Thus, Pennsylvania has established a RACT emission limitation for coal-fired boilers with SNCR. In addition, these boilers are also subject to boiler type presumptive RACT limits (0.16, 0.35, 0.40, or 0.45 lbs/MMBTU) in 129.97(g)(v) and (vi). Thus, coal-fired units are subject to both numerical limits and work practice standards which reasonably establish RACT as an ''emission limitation'' considering technical and economic feasibility. EPA also disagrees with the commenter's assertion that EPA should require language to ensure optimum operation of SNCR controls because this is not required for RACT-level control. EGUs are required to optimize emission control for NOx (including SCR and SNCR) for interstate ozone transport requirements for the 2008 ozone NAAQS. *See* 83 FR 50444 (October 5, 2018) (Response to Clean Air Act Section 126(b) Petitions from Delaware and Maryland) (stating EGU sources would have already optimized emission controls like SCR and SNCR when EPA finalized the CSAPR Update in 2016 to address interstate transport of ozone (81 FR 745504 (October 26, 2016)).

B. NO_X Averaging

Comment 9: The commenter asserts that Pennsylvania's NO_X averaging formula in section 129.98(e) does not adequately set an alternative emissions limit, as required by this provision in 129.98. The commenter argues that the allowable NO_X mass emissions defined by the formula ($E_{iallowable}$) in 129.98 should be ''fixed,'' rather than changing with operating scenarios. The commenter further requests that EPA disapprove section 129.98 because this formula is unenforceable due to the unspecified method of calculation, and because PADEP's interpretation of these provisions provided as part of the supplemental document is clearly different from the plain language of the rule.

Response 9: As discussed in the NPRM and TSD, EPA identified deficiencies in the NO_X averaging provisions of the RACT II Rule including the need for enforceable conditions. As previously discussed, Pennsylvania committed in the September 26, 2017 letter ''. . . to submit the terms and conditions dealing with emission averaging to EPA as facility specific SIP revisions to address EPA's concerns.'' September 26, 2017 submittal, p. 2. EPA is conditionally approving 129.98 under CAA 110(k) based on this commitment. Thus, EPA agrees to a limited extent with the comment regarding whether 129.98 adequately established how to compute the alternative NO_X limit. The submission of alternative NO_X limits and relevant compliance demonstration requirements for approval into the SIP would allow EPA to determine if each NO_X averaging plan and underlying alternative NO_X limit is adequate for RACT. In addition, any alternative limits provided by PADEP would need to be enforceable to obtain EPA approval into the SIP.

EPA does not agree with commenter that for the alternative NO_X emissions limit to be adequate and/or enforceable, it must necessarily be a ''fixed'' limit. EPA has, in the past, approved emission limitations based on equations where certain variables within the equation change based on various aspects, such as type of fuel being used, operating modes, or other specific conditions.[15] [16] EPA believes that, as long as all possible variables to be used are properly identified and the equation is sufficiently constrained, the equation can be used to establish an alternative emission limit and that limit can be enforceable.

Regarding the comment that Pennsylvania's interpretation of the enforceability of averaging provisions in 129.98 is somehow different in the September 2017 letter to EPA than what is in the terms of 25 Pa. Code 129.98, EPA has addressed the enforceability issues relating to averaging in 129.98 through the conditional approval and through Pennsylvania's commitment to submit all such plans to EPA for SIP approval. Pennsylvania's interpretation in the September 2017 letter regarding terms in 129.98 is not germane as EPA is conditionally approving 129.98 based on Pennsylvania's commitment to submit averaging plans to EPA for SIP approval in response to EPA's identified deficiencies in the NPRM regarding averaging.

Comment 10: The commenter identified various concerns with the equation provided in section 129.98(e) to estimate an alternative limit for NO_X emissions averaging. First, the commenter argues that the equation is unenforceable because it does not properly explain how to calculate

[14] *See* December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, ''Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,'' and also 44 FR 53762; September 17, 1979.

[15] *See* Air Plan Approval; Georgia; Miscellaneous Revisions, July 28, 2017 (82 FR 35106); specifically, Rule 391–3–1–.02(2)(e) which establishes allowable particulate matter emission limits for sources based on process input weight.

[16] *See* Approval and Promulgation of Air Quality Implementation Plans; Montana; Regional Haze Federal Implementation Plan, September 12, 2017 (82 FR 42738); specifically, the best available retrofit technology (BART) particulate matter emission rate for the Trident cement kiln which is based on the concentration of particulate matter, volumetric flow rate of the effluent gas, and total kiln clinker production.

allowable NO_X mass emissions for each affected emission unit. The commenter also indicates that if PADEP allows the use of actual heat input to calculate both actual NO_X emissions ($E_{iactual}$) and allowable NO_X emissions ($E_{iallowable}$), the source will never be found in violation of the NO_X averaging plan, as mathematically both sides of the equation would increase proportionally.

Response 10: EPA agrees with the commenter to the extent that EPA already identified concerns with the equation provided in 129.98(e) given its lack of specificity. These concerns led to our conditionally approving 129.98 based upon Pennsylvania's commitment to submit to EPA for inclusion in the SIP permits which will employ these NO_X averaging provisions. In order for section 129.98 to become fully approved, PADEP must provide to EPA for approval into the SIP the alternative emission limits adopted under section 129.98 and related compliance demonstration requirements.

EPA does not have sufficient information to assess if actual heat input will in fact be used in calculating both actual and allowable NO_X emissions. $E_{iactual}$ is defined in section 129.98(e) as ''the *actual* NOx mass emissions, including emissions during start-ups, shutdowns and malfunctions, for air contamination source i on a 30-day rolling basis.'' (italics added). $E_{iactual}$ cannot represent the ''actual NOx mass emissions'' if the actual heat input is not used in the calculation, so using *allowable* heat input in calculating actual emissions would be illogical. EPA also believes that PADEP intends to use actual heat inputs when calculating $E_{iallowable,}$ along with the presumptive RACT emission rate (or more stringent emission rate applicable to the source). PADEP's September 26, 2017 commitment submittal states that ''[t]he allowable mass emissions are calculated each hour using the presumptive NOx RACT emission limit (or more-stringent limit, if applicable) and the *actual heat input* from the Department certified CEMS.'' P. 1 (italics added). However, the RACT regulations do not expressly specify whether actual heat input or allowable heat input will be used in calculating $E_{iallowable.}$ This is one of several identified concerns which led to EPA's conditional approval of section 129.98, and Pennsylvania's commitment to submit NO_X averaging plans for approval into the SIP, with each plan including an enforceable alternative emissions limit and compliance demonstration requirements.

Comment 11: One commenter requests EPA require that NO_X averaging emissions limitations established under 25 Pa. Code section 129.98(e) be based on emissions rates (lbs/MMBTU), instead of mass emissions (lbs).

Response 11: EPA disagrees with commenter's request because there is no requirement in the CAA that RACT emission limitations for NO_X averaging be based on emissions rates, as opposed to NO_X mass emissions. Although EPA allows the use of NO_X averaging to meet RACT for NO_X sources, no specific additional regulatory requirements concerning how to implement a NO_X averaging scheme were adopted by EPA. Therefore, EPA believes that PADEP should have flexibility in choosing how to express the NO_X averaging limits, as long as PADEP can demonstrate that the same level of RACT emission reductions will be achieved.[17]

Comment 12: The commenter asserts that the system-wide and facility-wide averaging equations do not set an ''alternative limitation,'' which commenter claims is required by the plain language of the RACT II Rule. Commenter asserts that the Rule requires facilities to ''calculate the alternative facility-wide or system-wide NO_X RACT emission limit . . . .'' Commenter further states that only the equation in 129.98(e) characterizes averaging as a method for demonstrating compliance, while this is not the plain reading of the remainder of section 129.98.

Response 12: Because the Commenter did not cite to the particular section or sentence of the RACT II Rule which is being interpreted or quoted, EPA can only use its best judgment to surmise that the language in section 129.98(e) is the source of the quoted language. Section 129.98(e) states ''[t]he owner or operator shall calculate the alternative facility-wide or system-wide NO_X RACT emissions limitation using a 30-day rolling average for the air contamination sources included in the application for the operating permit or plan approval, ...'' There is no other language in section 129.98 which is similar to the Commenter's quote. EPA believes that the term ''emission limitation'' in section 129.98(e) should be interpreted as ''$E_{iallowable}$,'' and that the calculation of $E_{iallowable}$ results in a total NO_X mass emission limitation for all of the sources included in the averaging plan, while commenter is expecting the averaging plan to have an overall emission rate limit, expressed as lbs NO_X/million Btu heat input, for the sources. When section 128.98(e) is considered in its entirety, rather than considering just a portion of one sentence, there is no conflict between the equations in 129.98(e) and the language of Section 129.98 overall. As discussed in the March 14, 2018 NPRM, EPA proposed to conditionally approve the NO_X averaging provisions in section 129.98 given concerns about the specificity of the equation in 129.98(e) and the compliance demonstration requirements within the rule. In this action, EPA is finalizing that conditional approval based on Pennsylvania's commitment to submit permits with NO_X averaging to EPA for SIP approval. Section 129.98(e) states that an alternative limit calculated by the owner or operator must be in the operating permit modification or plan approval, and section 129.98(g) requires that the application for such an averaging plan should contain, ''. . . methods for demonstrating compliance. . . .'' The SIP submittal should therefore address the emission limitation and the compliance demonstration issues.

Comment 13: One commenter states that an averaging plan is a method of demonstrating compliance with presumptive NO_X limits in section 129.97, allowing sources to demonstrate compliance as a group of emissions sources rather than as individual emissions sources.

Response 13: EPA agrees that sources can use section 129.98 to apply for an averaging plan covering multiple units or sources. However, EPA does not agree that the averaging plan or equation in section 129.98 will directly show compliance with the presumptive RACT limits applicable to each source in the plan. The averaging plan or equation in section 129.98 is instead intended to demonstrate that the resulting NO_X emissions using a 30-day rolling average would not be greater than NO_X emissions from the group of included sources if they each complied with the applicable presumptive NO_X RACT emissions limit in section 129.97. Section 129.98(g) requires that the application for such an averaging plan should contain, ''methods for demonstrating compliance. . . .'' The fact that the application must have a method for determining compliance shows that section 129.98 does not, in its text, have a method for determining compliance with section 129.97. The presumptive limits in section 129.97 otherwise applicable to each source must be used as a factor in the $E_{iallowable}$ equation (unless a lower emission limit applies to a source) in 129.98 but will not be used on the $E_{iactual}$ side of the equation. Instead, actual mass emissions from each source in the plan, as determined by CEMS or other means, on any given day will be added together on

[17] *See* 80 FR 12279.

the $E_{iactual}$ side of the equation. Thirty days of $E_{iactual}$ daily mass emissions will be added together and divided by 30, and 30 days of daily $E_{iallowable}$ mass emissions will be added together and divided by 30. The resultant 30-day average of $E_{iactual}$ emissions on any given day must be less than or equal to the 30-day average of $E_{iallowable}$ emissions on the same day. It will not be possible under this averaging scheme to determine whether the individual hourly emission rate of each source/unit met the presumptive RACT limit in section 129.97 for that source. Thus, the provisions of 129.98 provide the formula to set the alternative NO_X emission limitation for sources who will comply with the alternative NO_X emission limitation in lieu of the presumptive rates in 129.97.

As previously discussed, EPA is concerned that section 129.98 lacks a definitive method for demonstrating how the 30-day rolling average mass NO_X emission limitation allowed by 129.98 will be less than or equal to the NO_X emissions that would have been emitted if all the sources complied with the source specific RACT limits of 129.97, so PADEP has committed to submit these averaging plans to EPA for approval into the SIP. The adequacy of the compliance demonstration provisions will be assessed through both the state public notice process and EPA's review of such SIP revisions. Thus, EPA disagrees with the commenter that any of the assertions prevent EPA from conditionally approving 129.98 as part of Pennsylvania's RACT.

Comment 14: One commenter asserts that PADEP's NO_X averaging provisions in section 129.98 do not require the establishment of an alternative NO_X emissions limit; and therefore, there is no need to submit averaging plans as separate SIP revisions to EPA.

Response 14: EPA disagrees that Pennsylvania's NO_X averaging provisions do not require establishment of an alternative NO_X emission limit. As discussed in the March 14, 2018 NPRM, EPA proposed to determine that the NO_X averaging equation in section 129.98(e) does '' . . . not clearly specify how to properly establish an alternative RACT limit.'' 83 FR 11160. To do so, EPA would need to know, at the least, what facilities and units are involved in each plan, the applicable limits in each plan, if multiple fuels are used, or any other information necessary to calculate ''$E_{iallowable}$.'' EPA also expressed concerns about the lack of compliance demonstration requirements in the rule. In addressing these deficiencies, PADEP committed to submit as SIP revisions any alternative emissions limits and compliance demonstration requirements approved under section 129.98. EPA has proposed approval of section 129.98 with the condition that PADEP meets this commitment to submit additional enforceable provisions for approval into the SIP during which time the alternative NO_X emissions limit will be clearly established.

Comment 15: Two commenters allege that Pennsylvania's rule provides system-wide or facility-wide NO_X averaging as a means of demonstrating compliance with the applicable emission limits included in the rule; and requests EPA to review the averaging provisions contained in EPA's Acid Rain Program (at 40 CFR 76.11) and the Mercury and Air Toxics Rule (MATS rule) (at 40 CFR 63.10009) that allow averaging as a means of demonstrating compliance.

Response 15: EPA disagrees with the commenters that Pennsylvania's rule provides averaging as a means of determining compliance. As previously stated, Pennsylvania's rule specifically directs the owner or operator to determine the ''alternative facility-wide or system-wide NO_X RACT emission limitation.'' This language requiring the owner/operator to determine an alternative emission limitation shows that the provisions of 25 Pa. Code 129.98 are not a means of demonstrating compliance but rather a means to determine an alternative emission limitation applicable to the corresponding facility or system.

Furthermore, section 76.11(a)(3) of the Acid Rain Program regulations require that each unit in an averaging plan must have a contemporaneous annual emission limitation, and, also requires that specific information be submitted that is not specified in section 129.98, such as annual heat input limits and an alternative annual emission limitation for each unit. The equation is only one part of the Acid Rain Program provisions, and if PADEP's section 129.98 regulation included the additional information and other requirements of the Acid Rain Program regulations, the equation might present an acceptable option.

Regarding the MATS rule equation at 40 CFR 63.10009, EPA notes there are many additional limitations in that section which are not present in section 129.98, such as groupings of similar sources, as well as multiple equations (6) specifically geared toward each grouping. In the absence of further explanation by the commenter as to how these equations can be usefully applied to the section 129.98 averaging program, EPA does not see the MATS rule averaging scheme as useful to resolving EPA's concerns.

Comment 16: One commenter disagrees with EPA's interpretation that section 129.98 requires the establishment of alternative emissions limitations for *individual* sources. The commenter urges EPA to recognize that the presumptive limits of section 129.97 are being used to establish RACT compliance requirements, including the averaging provisions, and that therefore these requirements should meet RACT. The commenter asserts that the NO_X averaging provisions in section 129.98 should be adequate for approval into the SIP, because EPA has found that the multiple fuel presumptive provision of section 129.97(g)(4) is approvable. The commenter contends that the multiple fuel presumptive provision is similar to the NO_X averaging provisions, as they both establish weighted averaged limits. The commenter also claims that EPA's proposed rulemaking action makes the RACT II Rule costlier to implement and comply with and less flexible.

Response 16: The fact that EPA has approved the source specific RACT limits in section 129.97 does not mean that an averaging plan which uses those limits to calculate an alternative limit is necessarily approvable. EPA must clarify that, as proposed in our NPRM, we do not expect new unit-specific emission limits (other than the unit-specific limit required by presumptive RACT) to be established for each unit covered under a system-wide or facility-wide NO_X averaging plan, but rather that an alternative limit must be determined for each plan, which would cover the non-complying unit and any other participating units. This is required by PADEP under 25 Pa. Code section 129.98(e): ''The owner or operator shall calculate the alternative facility-wide or system-wide NO_X RACT emissions limitation using a 30-day rolling average for the air contamination sources included in the application (. . .) by using the following equation to sum the emissions for all of the sources included in the NO_X emissions averaging plan.''

EPA agrees with the commenter that the presumptive emission limits in section 129.97 are used in developing the alternative NO_X limit under an averaging plan, as required by section 129.98(e); however, EPA disagrees that they are used to establish RACT compliance requirements. As plainly stated in section 129.98(e), the owner or operator shall calculate an alternative facility-wide or system-wide NO_X emission limitation. Second, according to section 129.98(a), the averaging provisions of section 129.98 may only

be utilized if one or more sources covered under such a plan are unable to meet the presumptive limits under section 129.97, and this unit would be in violation of the applicable NO_X limit in section 129.97.

EPA disagrees with the commenter's assertion that the averaging provisions of section 129.98(e) are similar to those under the multiple fuel firing provisions in section 129.97(g)(4). The mathematical formula in section 129.97(g)(4) is a weighted average formula where a value is computed resulting from the multiplication of each component by a factor reflecting its frequency of use. The formula in section 129.98 computes an alternative limit that is not a weighted average or even a mathematical average, as the section's title may imply, but a summation of all NO_X mass emissions from each unit covered under the averaging plan. Thus, the two formulae described by the commenter are not similar in nature and are not comparable. Also, the most substantive difference between these two requirements is that the NO_X averaging provisions of section 129.98 require an owner or operator to establish an alternative limit covering multiple units, including any NO_X units unable to meet presumptive RACT and any other participating units under such averaging plan; whereas section 129.97(g)(4) establishes a presumptive RACT requirement for a single emissions unit. This need to establish an alternative limit under the variable ''$E_{iallowable}$'' in the equation of section 129.98(e) is one of the main differences between the two provisions.

Furthermore, EPA identified several deficiencies in the averaging provisions of section 129.98 that prevent its full approval, but those deficiencies were not present in the multiple fuel provisions of 129.97(g)(4). Namely, EPA found that the averaging provisions of section 129.98 do not clearly specify how to properly establish an alternative RACT limit (under the variable ''$E_{iallowable}$'') and do not specify sufficient compliance demonstration requirements for sources seeking to comply with these provisions. Therefore, these provisions were not found adequate to meet RACT. EPA disagrees with the commenter's presumption that if section 129.97(g)(4) meets RACT, so should section 129.98.

Finally, although the commenter claims that EPA's proposed action raises the cost for affected sources with regard to implementation and compliance of the RACT II Rule, the commenter failed to specify how EPA's action would increase costs on facilities choosing system-wide or facility-wide averaging. Given the lack of specificity and lack of analysis on how EPA's action requiring Pennsylvania to submit plans for SIP approval raises costs on sources, EPA provides no further answer.

Comment 17: The commenter argues that NO_X averaging plans under section 129.98 must provide explicit emissions limits for individual emissions units consistent with the reasonably achievable controls, and further recommends using historical achievable NO_X rates as the basis for establishing these limits. Furthermore, the commenter asserts that the averaging plan must show that the resulting NO_X emission limits from the averaging plans are more stringent than the presumptive limits that would be in effect otherwise.

Response 17: EPA disagrees with the commenter on each of its assertions. First, EPA disagrees that averaging must provide explicit emissions limitations for *individual* sources. In fact, under its longstanding RACT policy, EPA has allowed NO_X averaging, recognizing that it would allow states the flexibility of establishing RACT without requiring the imposition of source-specific controls or consequently source-specific emissions limits. EPA has allowed averaging for RACT purposes, as long as the state can achieve NO_X reductions less than or equal to those that would be achieved if individual RACT emission rates were required for each individual source. Limitations on individual sources would restrict flexibility for meeting RACT requirements.

EPA disagrees that averaging must result in more stringent NO_X limitations than the presumptive limits, as this is not required under the longstanding EPA provisions permitting averaging. *See South Coast Air Quality Mgmt. Dist.* v. *EPA,* 882 F.3d 1138, 1154 (D.C. Cir. 2018) (addressing averaging within EPA's ozone implementation rule). EPA finds that section 129.98 requires that the overall level of NO_X emissions from units participating in an averaging plan should be less than or equal to the total NO_X emissions which would have been emitted if each source complied with its applicable presumptive RACT limit. *See* 25 Pa. Code 129.98(e).

Comment 18: The commenter urges EPA to deny the approval of any NO_X averaging plan as a revision to the SIP, if the plan does not provide sufficient justification for demonstrating that an emissions unit cannot meet the applicable presumptive RACT limit.

Response 18: EPA concurs with commenter that section 129.98(a) requires PADEP to determine that the facility is not able to comply with presumptive RACT in order to allow a source to comply with the provisions in 129.98. Pennsylvania has committed to submitting permits with the NO_X averaging plans to EPA for SIP approval and EPA will review whether sources demonstrated compliance with requirements in 129.98 when such plans are before EPA for SIP approval.

Comment 19: One commenter asserts that although NO_X averaging applies to NO_X emitting units that cannot comply with the presumptive limits, section 129.98 does not impose any detailed requirements for showing that an affected NO_X emissions unit cannot comply with the presumptive NO_X RACT limits. Commenter argues that this lack of specific requirements allows the owner or operator of the affected emissions units to make this determination without providing any justification. Commenter further suggests such demonstration should be based on the evaluation of past performance for the non-complying unit.

Response 19: EPA agrees that section 129.98 does not specifically describe how a source must demonstrate that it is unable to meet the applicable presumptive limit, in order to qualify for averaging under section 129.98. However, the inability to meet the limit remains a requirement within 129.98 for Pennsylvania to evaluate before granting the alternative NO_X plan. In addition, based on Pennsylvania's September 2017 commitment to ''submit the terms and conditions dealing with emissions averaging to EPA as facility specific SIP revisions,'' EPA will review the terms of each plan and whether the provisions in 129.98 were met. *See* Pennsylvania's September 26, 2017 submittal, p .2.

Comment 20: One commenter states that PADEP's averaging provisions allow unbounded discretion to the owner or operator in choosing which units may be able to participate in an averaging plan, which then allows inappropriate averaging. The commenter also contends that such discretion would allow, for example, that coal-fired boilers with existing controls, such as SCR or SNCR, avoid fully optimizing existing controls; or that averaging occurs across different fuel types.

Response 20: EPA agrees in part with the commenter's statement that section 129.98 grants the owner or operator the ability to determine which units should be averaged together; however, EPA disagrees with commenter's proposition that such discretion should cause EPA to disapprove this SIP revision. EPA believes that such discretion is consistent with EPA's RACT policy, which allows states to use averaging for RACT purposes as long as the level of NO_X reductions due to averaging is

equivalent to, or greater than, the level of reductions otherwise achieved by individual application of RACT. As noted in EPA's responses above, Section 129.98(a) requires that an owner or operator seeking to use NO_X averaging must first show that one (or more) units to be included in the averaging plan cannot comply with the presumptive RACT limits applicable to the unit before an averaging plan can be considered. In addition, system-wide averaging is only allowed among sources under common control of the same owner or operator and located within the same ozone nonattainment area. Further, section 129.98(c) requires that the other sources participating in a NO_X averaging plan are subject to a NO_X emissions limitation under section 129.97. Provided these conditions are met, the owner or operator of an affected source (*i.e.,* the source with a non-compliant unit) may select which and how many other emissions units would be included in the averaging plan. PADEP has also stated as part of the SIP submittal that an owner or operator of an affected source complying with a NO_X averaging plan must demonstrate that the NO_X emissions for other units included in the averaging plan are below the applicable limits in section 129.97 in order to provide the cushion for averaging the excess emissions of the noncomplying source.[18] Thus, the discretion provided under section 129.98 to choose which units participate in a NO_X averaging plan is not unbounded and would not allow ''inadequate averaging,'' as the commenter proposes.

EPA recognizes that PADEP's NO_X averaging may allow units to avoid the installation of additional controls or optimization of existing controls. However, nothing in the CAA, its regulations or EPA guidance requires installation of additional controls or optimization of existing controls to meet ozone RACT requirements. By allowing states to use NO_X averaging, EPA intended to provide additional flexibility in establishing RACT, as long as RACT level reductions are achieved for the nonattainment area. EPA does not believe that averaging across combustion units firing different fuels is inappropriate, nor does the commenter provide any analysis supporting this statement.

Comment 21: One commenter asserts that the RACT II Rule, as written, limits system-wide averaging to areas designated nonattainment under CAA section 107, but that PADEP appears to be considering the rest of the Commonwealth as one giant nonattainment area. The commenter argues that because the RACT II Rule does not have its own definition of ''nonattainment area,'' Pennsylvania's general definition in section 121.1 applies. Section 121.1 defines ''nonattainment area'' as those areas designated by EPA under CAA section 107.

Response 21: Pennsylvania's RACT II Rule allows emissions averaging to take place under two specific scenarios. In response to comments submitted by EPA during the state rulemaking process, PADEP clarified its interpretation of section 129.98 in the preamble to the final regulations. *See* 46 PaB 2036. First, for areas formally designated as nonattainment under CAA section 107, PADEP intended to limit emissions averaging to sources under common control or ownership *within that formally designated nonattainment area,* as this comports with established caselaw. *See Nat. Res. Def. Council* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009) (holding that the NO_X SIP call trading plan cannot be used for RACT averaging because emission reductions needed for a nonattainment area must come from same nonattainment area). Second, EPA believes PADEP intended to allow emissions averaging among sources under common control/ownership that were outside of those areas ''formally designated'' nonattainment, but inside the state boundaries (*i.e.,* within the OTR attainment areas and *treated as Moderate nonattainment* for SIP planning purposes in accordance with CAA section 184). That is, sources within an area formally designated as nonattainment under CAA section 107 could use emissions averaging with another source in the same area, and sources outside those formally designated nonattainment areas could use emissions averaging with other sources that are in similar attainment areas (but within the OTR area), but no emissions averaging is allowed between sources in an area formally designated as nonattainment under section 107 and sources in areas designated unclassifiable or attainment within the Commonwealth, but within the OTR.

C. Compliance Demonstration Requirements

Comment 22: The commenter notes that the provisions in section 129.98(g)(3) and 129.98(j) refer to the compliance demonstration requirements in section 129.100; however, the commenter states section 129.100 has no specific requirements for sources in an averaging plan.

Response 22: As noted in the NPRM, EPA identified its concerns regarding the provisions establishing compliance demonstration requirements for sources seeking to comply with NO_X averaging in sections 129.98 and 129.100 of the RACT II Rule. For this reason, EPA is requiring PADEP as part of our conditional approval to submit for approval into the SIP any compliance demonstration requirements for sources subject to section 129.98. This will ensure that the alternative NO_X limits under section 129.98 are practically and Federally enforceable, pursuant to CAA section 110(a)(2)(A).

Comment 23: The commenter contends that section 129.99(d)(6) refers to the compliance demonstration requirements in section 129.100; however, no specific requirements are specified for these affected sources under section 129.100. The commenter also contends that without existing compliance demonstration requirements, it is unclear how PADEP will be able to approve enforceable alternative RACT proposal, and that consequently EPA should disapprove section 129.99 of the regulation.

Response 23: EPA notes that section 129.99(d)(6) requires a source seeking to comply with source-specific RACT to ''[i]nclude in the RACT proposal methods for demonstrating compliance *and* (emphasis added) recordkeeping and reporting requirements in accordance with § 129.100 (relating to compliance demonstration and recordkeeping requirements) for each air contamination source included in the RACT proposal.'' Section 129.100(d) and (i) establish recordkeeping and reporting requirements for all sources subject to the RACT II Rule. In addition, section 129.99(d)(1) requires the written RACT proposal to follow the procedures in 129.92(a)(1)–(5) and (7)–(10). Section 129.92(a)(7) requires a RACT proposal to include the ''testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT.'' *See* 129.92(a)(7). As Pennsylvania has committed to submitting all additional source-specific RACT SIP provisions containing source-specific RACT limits approved by PADEP under 129.99 to EPA for approval into the Pennsylvania SIP, EPA can further evaluate compliance demonstration when such alternatives are submitted for SIP approval.

Comment 24: One commenter contends that section 129.100 does not prescribe specific recordkeeping requirements to determine compliance with the applicable RACT requirements in sections 129.96 to 129.99; and for that reason, urges EPA to disapprove this

[18] *See* PADEP's Responses to Comments Document, Comments #137, #138, #142, and #194.

section of the RACT II Rule. Commenter argues that PADEP should have identified specific requirements for determining compliance with presumptive RACT and NO_X averaging, such as fuel monitoring and hours of operation, while for alternative source-specific limits, it should have specified that compliance methods would be determined on a case-by-case basis.

Response 24: Neither EPA's implementation rule for the 1997 ozone standard nor the implementation rule for the 2008 ozone standard specifically identify those parameters, measures, or data which a source must record in order to demonstrate compliance with RACT limits developed by the states. *See* 40 CFR part 51, subparts X and AA. EPA has issued general statements in preambles for rulemakings other than the ozone implementation rules mentioned above discussing the monitoring and recordkeeping requirements generally necessary for any SIP and for NO_X RACT SIPs, but these do not identify specific parameters that must be monitored/recorded for various types of sources in order to prove compliance, and instead directs the state to identify those parameters. *See* 57 FR 13498, 13502 (April 16, 1992) (General Preamble for the Implementation of Title I of the [CAA] Amendments of 1990); 57 FR 55620, 55624—55625 (Nov. 25, 1992) (Nitrogen Oxides Supplement to the General Preamble for the 1990 Amendments). The commenter cites two such parameters—fuel usage and/or hours of operation—which could have been specified in Pennsylvania's RACT regulations for NO_X averaging and presumptive RACT. While EPA agrees that for many sources these two parameters are useful to determine compliance, EPA does not expect that a state's RACT SIP regulation identify, for each type of source, each parameter which must or might be monitored by that source in order to show compliance with the RACT limit. EPA believes that the operating permits issued by the Commonwealth will specify the parameters that need to be monitored to show RACT compliance. The Pennsylvania SIP also has other recordkeeping requirements besides the RACT II Rule (25 Pa. Code sections 129.96–129.100) which require recordkeeping useful for determining compliance with the RACT limits. For example, Pennsylvania has emission reporting requirements, found at 25 Pa. Code 135.1–135.5, which require almost every stationary source of any size to maintain and make available records which ''. . . may include records of production, fuel usage, maintenance of production or pollution control equipment or other information determined by the Department to be necessary for identification and quantification of potential and actual air contaminant emissions. If direct recordkeeping is not possible or practical, sufficient records shall be kept, to provide the needed information by indirect means.'' 25 Pa. Code 135.5. In addition, Pennsylvania has special monitoring provisions for sources that have or are likely to have ''substantial impacts'' on the maintenance of ambient air quality standards. 25 Pa. Code 139.51–139.53. These requirements include regular testing for emissions or the installation of continuous emission monitoring systems (25 Pa. Code 139.52) and reporting of such testing to PADEP, including ''. . . information regarding test methods, test conditions, operating conditions of the source or other information which may be necessary to properly evaluate the results of emissions monitoring performed at a source.'' 25 Pa. Code 139.53(b).

Pennsylvania's SIP also has permitting requirements (called Plan Applications and Plan Approvals) which require any ''air contamination source'' to obtain a plan approval from PADEP prior to constructing, modifying, reactivating, or installing an air pollution control device on such source. 25 Pa. Code 127.11. A plan application must, inter alia, ''(3) Show that the source will be equipped with reasonable and adequate facilities to monitor and record the emissions of air contaminants and operating conditions which may affect the emissions of air contaminants and that the records are being and will continue to be maintained . . .'' 25 Pa. Code 127.12(a)(3). The permit (plan approval) must contain the monitoring, recordkeeping and reporting requirements in 25 Pa. Code 139, any such requirements in Article III (Pennsylvania's Air regulations), and any other CAA monitoring, recordkeeping and reporting requirements required. 25 Pa. Code 127.12b(c). Finally, the operating permit requirements for major sources in 25 Pa. Code 127.401–127.406 also contain similar monitoring, recordkeeping, and reporting requirements. *See* 25 Pa. Code 127.411(a)(4), 127.441(c), and 127.442.

EPA believes that given the lack of specific requirements in EPA's RACT regulations for the 1997 or 2008 ozone NAAQS, the recordkeeping and reporting requirements of Pennsylvania's RACT II Rule in 25 Pa. Code 129.100 are sufficient for approval of the RACT SIP. Also, Pennsylvania has many other monitoring and recordkeeping requirements potentially applicable to RACT sources that provide ample authority to Pennsylvania, through various mechanisms, to obtain any information necessary to show compliance with the RACT limits. Thus, EPA does not believe Pennsylvania's RACT regulations must be disapproved, in whole or in part, for lack of specificity concerning monitoring and recordkeeping to show RACT compliance.

D. Averaging Time for Compliance Demonstration

Comment 25: Commenters allege that EPA failed to consider the averaging times of Pennsylvania's NO_X presumptive emission limits. Commenters contend that a 30-day averaging period is too lenient and inconsistent with RACT in other OTR states, which use averaging periods as short as 1-hour or 24-hours averages. Commenters also allege that 30-day NO_X averaging may allow sources to emit more NO_X on days when conditions are conducive to ozone formation that might lead to an exceedance of the NAAQS.

Response 25: EPA disagrees with the commenters. During EPA's review of Pennsylvania's RACT II Rule, EPA compared Pennsylvania's presumptive limits with those of other OTR states. In Appendix B of EPA's TSD, EPA provided the emission limits for other OTR states while noting the difference between those states' rules and Pennsylvania's rule below each table in the TSD.

PADEP determined that a 30-day rolling average limit addresses problems faced by certain owners and operators, including variability in fuel source, emission spikes during start-ups, shutdowns, and malfunctions, and other unavoidable circumstances. PADEP determined that these situations are not indicative of normal operations and so it would not be appropriate to require facilities to show compliance with the presumptive NO_X RACT emission limit over a 1-hour or 8-hour averaging period as such variability would affect technical and economic feasibility of sources to meet the presumptive limits making compliance either technically infeasible or cost ineffective. PADEP selected the 30-day rolling average to ensure technical and economic feasibility for Pennsylvania sources to meet RACT. PADEP reasons that to maintain compliance with a 30-day rolling average, sources will have to operate below the allowable standard on some days in order to account for potential days of higher emissions. PADEP also notes that EPA has

approved 30-day rolling averages as ''short-term'' RACT limitations in SIP revisions submitted by New York and Wisconsin. *See* 75 FR 64155 (October 19, 2010) for Wisconsin and 78 FR 41846 (July 12, 2013) for New York.

E. Cost Effectiveness

Comment 26: One commenter contends that PADEP did not perform any cost effectiveness evaluation while setting the presumptive limits and argues that EPA cannot supplement a state's faulty or deficient SIP. The commenter alleges that EPA's performance of a cost-effective analysis in the second TSD shows both the necessity for such an analysis and that PADEP did not perform a cost-effectiveness analysis and therefore Pennsylvania's SIP revisions lacked an adequate RACT evaluation.

Response 26: EPA disagrees that PADEP did not perform any cost-effectiveness evaluation when establishing presumptive limits under the RACT II Rule. PADEP relied on a cost-effectiveness of $2,800 per ton of NO_X controlled and $5,500 per ton of VOC controlled for the presumptive limits in the RACT II Rule.[19] As mentioned in PADEP's final rulemaking, Pennsylvania's Environmental Quality Board (EQB) stated that the Regulatory Analysis Form (RAF) was ''replete with substantive information regarding emissions data, cost-effectiveness numbers, public health information, statutory requirements, small business information and other types of analyses to demonstrate that the regulations are legally required, in the public interest, economically and technologically feasible, and will reduce emissions.'' The EQB also stated ''[t]he presumptive RACT emission limitations were established based on cost-effectiveness of available control technology. . . .'' Thus, EPA believes that PADEP did in fact perform a cost-effectiveness evaluation in order to determine what emission limitations and control technologies were technologically and economically feasible.

Also, EPA disagrees that it ''supplemented'' the state's SIP submission by performing and referring to its own analysis of cost for very large coal-fired boilers with SCR and SNCR in the second TSD. EPA performed this analysis in support of our evaluation of the reasonableness of PADEP's cost-effectiveness threshold of $2,800 per ton of NOx controlled and the resulting emission limits derived for coal-fired boilers in the RACT II Rule. EPA focused its evaluation on this source category because it is the largest NO_X emitting sector in Pennsylvania. EPA's evaluation in the TSD supported our conclusion that Pennsylvania's RACT was reasonable and does not indicate that Pennsylvania's SIP was therefore inadequate or lacking information.

Comment 27: Two commenters claimed that Pennsylvania's cost effectiveness thresholds for NO_X and/or VOC were too low compared to adjoining states (New York, New Jersey, and Delaware) in the OTR and states sharing nonattainment areas with Pennsylvania. One commenter referred to New York's threshold of $5,000 to $5,500 per ton of NO_X for coal-fired units and pointed to New Jersey's and Delaware's consideration of best available control technology (BACT) as cost effective controls to meet RACT, even when not using specific cost-effectiveness benchmarks.

Response 27: EPA is aware that Pennsylvania considered cost-effectiveness levels that are lower than other states in the OTR when developing the RACT II Rule; however, states have the discretion to determine what costs are considered reasonable when establishing RACT for its sources. For these reasons, EPA has not set a single cost, emission reduction, or cost-effectiveness figure to fully define cost-effectiveness in meeting the NO_X RACT requirement. Therefore, each state must make and defend its own determination on how to weigh these values in establishing RACT.

PADEP relied on a cost-effectiveness of $2,800 per ton of NO_X controlled and $5,500 per ton of VOC controlled for the presumptive limits in the RACT II Rule.[20] In considering similar comments received during its proposal of the rule concerning cost-effectiveness, PADEP determined that ''[e]ven with an additional 25% margin, the upper bound cost-effectiveness threshold would not be any greater than $3,500 per ton NO_X controlled'' and ''$7,000 per ton VOC controlled,'' and that ''[a]pplying these new thresholds does not have an effect on the add-on control technology decisions for the presumptive RACT requirements established in the final rulemaking.'' PADEP concluded that the RACT presumptive limits included in final form of the RACT II Rule ''are comparable to emission limits included in other states' RACT regulations as well.'' [21]

Further, while cost effectiveness is an important consideration, it must be noted that other factors should be integrated into a RACT analysis, such as emission reductions and environmental impact. As stated above, Pennsylvania determined higher cost thresholds did not impact feasible add on control technology. And, as discussed earlier, EPA believes that PADEP's presumptive limits are reasonable as they reflect control levels achieved by the application and consideration of available control technologies, after considering both the economic and technological circumstances of Pennsylvania's own sources. EPA also finds that Pennsylvania's presumptive limits are comparable to those adopted in other states for similar sources.[22]

F. Alternative Compliance Schedules

Comment 28: One commenter argues that sources petitioning for alternative compliance schedules, as allowed under section 129.97 and 129.99, should be required to submit the alternative compliance dates and interim emissions limits to EPA for inclusion in the SIP. Commenter further argues that without incorporating these into the SIP, facilities would be liable for violating the SIP-approved compliance deadline of Jan 1, 2017 and the applicable presumptive limits.

Response 28: Regarding section 129.99, section 129.99(h) explicitly states that alternative RACT requirements or emission limitations requested under subparts 129.99(a), (b) and (c) and approved under 129.99(f) will be submitted to EPA for approval into the SIP. Pennsylvania has also committed to submitting to EPA all source-specific RACT determinations under section 129.99 for approval as a SIP revision within 12 months of EPA's final rulemaking. Therefore, the commenter's concern that alternative compliance schedules issued under section 129.99 should be submitted to EPA for approval as part of the SIP is already being addressed by the language of section 129.99(h) and Pennsylvania's September 26, 2017 committal to submit permits with schedules under 129.99 to EPA for inclusion in the SIP; PADEP will be submitting any section 129.99 alternative compliance schedule and the emission limits to EPA as a formal SIP revision. EPA will evaluate and act accordingly on any SIP revision

[19] *See* PADEP's Responses to Comments Document, Docket item #0004 Comments #13 and #111.

[20] *See* PADEP's Responses to Comments Document, Docket item #0004, Comments #13 and #111.

[21] *See* PADEP's Responses to Comments Document, Docket item #0004, Comment #13

[22] *See* EPA's TSD, section IV.C.

submitted with alternative compliance schedules in a future rulemaking action.

For alternative compliance schedules in section 129.97(k), EPA believes that PADEP intends to submit all such alternative compliance schedules to EPA for approval into the SIP. EPA finds the schedules discussed in section 129.97(k) are also included within the scope of section 129.99 (and thus within Pennsylvania's September 26, 2017 commitment) because section 129.99(i) addresses how sources can get an alternative RACT requirement or alternative RACT emission limit when installing an air cleaning device and section 129.99(i) provides the process and details needed for sources to petition PADEP for an alternative. Section 129.97(k) provides one such alternative RACT requirement within the meaning of section 129.99(i) as it provides that sources which cannot meet presumptive limits without installing an air cleaning device may petition PADEP for additional time to comply. Thus, any source seeking an alternative under section 129.97(k) (because it needs to install an air cleaning device) is also subject to section 129.99 (via 129.99(i) as a source seeking an alternative RACT requirement due to installation of an air cleaning device), and PADEP has committed in its September 26, 2017 letter to sending all such alternative RACT proposals to EPA for SIP approval.

Sources that did not need to install equipment and/or modify permits to meet the presumptive RACT requirements in 25 Pa. Code 129.96 were required to comply with presumptive RACT by the January 1, 2017 deadline. Existing sources that could not meet presumptive RACT without installation of an air cleaning device were required to petition PADEP to request an alternative compliance schedule by October 24, 2016 and include a compliance schedule no longer than three years from the date of PADEP's approval of the petition, with interim emission limits and compliance dates. 25 Pa. Code 129.97(k). PADEP provided a list to EPA on March 22, 2019 of sources receiving alternative compliance schedules under 25 Pa. Code 127.97(k) or 127.99(i) showing that eight of the nine sources are presently complying with presumptive RACT requirements or more stringent emission limits known as ''best available technology'' limits to which new sources in Pennsylvania are subject. The ninth source will achieve full compliance with presumptive RACT by Fall of 2019. EPA has included the list from Pennsylvania in the docket for this rulemaking action available online at *www.regulations.gov.*

Given the relatively small number of sources seeking alternative compliance schedules under 25 Pa. Code 129.97(k), the majority of sources currently in compliance with presumptive RACT and the remaining source complying with presumptive RACT imminently, and given PADEP's commitment to have permits issued under 25 Pa. Code 127.99 (inclusive of 127.97(k)) included in the SIP, the extensions of time granted by PADEP's regulations after the January 1, 2017 RACT compliance deadline are not unreasonable as RACT is being implemented within the Commonwealth. Moreover, there is no ability for EPA to ''turn back the clock'' and have these sources comply by 2017 at this date. For these reasons, EPA believes that the provisions in 127.97 and 129.99 regarding compliance dates are reasonable and approvable (with the caveat that 127.99 is subject to conditional approval for submission of permits for SIP approval) for RACT as compliance is complete or nearly complete. EPA will evaluate and act accordingly on any permits submitted to EPA for SIP-approval at a future time through a future rulemaking action.

Comment 29: Commenter argues that for sources receiving alternative compliance schedules under sections 129.97 or 129.99 extending beyond January 1, 2017, PADEP should be required to submit the alternative compliance dates and interim emissions limits to EPA for possible approval into the SIP. Commenter urges EPA to confirm that alternative compliance schedules or limits are not Federally enforceable, unless PADEP submits them to EPA and EPA approves them into the SIP.

Response 29: In 25 Pa. Code section 129.99(h), PADEP explicitly states that PADEP will submit the alternative RACT requirement or RACT emission limitation requested to EPA for approval into the SIP. In addition, PADEP has committed to submitting to EPA *any* alternative RACT schedules and proposals received under section 129.99, which includes those submitted under 25 Pa. Code 127.97(k) as discussed in response to prior comments. EPA will evaluate and act accordingly on any alternative compliance schedule or alternative RACT emission limit submitted for SIP-approval at a future time through a future rulemaking action. EPA will evaluate the reasonableness of any extension of time for RACT compliance beyond Pennsylvania's January 1, 2017 deadline when the SIP is submitted to EPA. In response to Comment #28, EPA addressed the timing of sources complying with alternative RACT. Regarding Federal enforceability, EPA agrees that any alternative RACT emission limits and/or alternative compliance schedules approved by PADEP which are not submitted to EPA for approval into the SIP would not be Federally-enforceable under the SIP; however, these limits may be included in some other type of Federally-enforceable permit.

Comment 30: One commenter argues that EPA cannot approve section 129.99(i)(2)(v) for sources petitioning alternative compliance schedules, because it allows a compliance date later than January 1, 2017, as required by EPA's ozone implementation regulation in 40 CFR 51.1112(a)(3). Commenter states that EPA must disapprove this provision of the regulation, as it is in violation of EPA's own regulations.

Response 30: EPA issued the 2008 ozone attainment designations for numerous areas of the country, including designating five areas in Pennsylvania as Marginal nonattainment areas, on May 21, 2012. *See* 77 FR 30088 and 40 CFR 81.339. On March 6, 2015, EPA issued its final rule for implementation of the 2008 ozone NAAQS (the ''2008 Ozone SIP Requirements Rule''). *See* 80 FR 12264 and 40 CFR 51.1100–51.1103. The 2008 Ozone SIP Requirements Rule set a deadline for submission of RACT SIP revisions for VOC and NO_X of two years after the designations effective date of July 20, 2012 or July 20, 2014 and a deadline for implementation of RACT of January 1, 2017. *See* 77 FR 30088 and 40 CFR 51.1112(a)(2). After EPA issued the 2008 Ozone SIP Requirements Rule, PADEP submitted its SIP revision on May 16, 2016 to implement the RACT requirements for the 1997 and 2008 ozone NAAQS. These regulations became final at the state level on April 23, 2016.

Sources in Pennsylvania subject to RACT for the 1997 and 2008 ozone NAAQS generally had slightly more than seven months from the state effective date of Pennsylvania's RACT regulations to meet the January 1, 2017 deadline. Advance planning by RACT sources in reliance upon Pennsylvania's proposed RACT limits before they became final at the state level on April 23, 2016 would have been imprudent because Pennsylvania both lowered and raised the presumptive RACT limits for multiple types of sources following the public comment period, which illustrates the uncertainty sources faced while trying to plan for implementation of RACT standards. For a list of changes

to the presumptive limits following Pennsylvania's proposal, see Table 1.

TABLE 1—CHANGES IN PRESUMPTIVE LIMITS FROM PROPOSAL TO FINAL

Presumptive citation (129.97)	Proposed limit	Final limit
(g)(1)(i)—Natural gas unit, heat input ≥50 MMBTU/hr	0.08 lbs/MMBTU	0.10 lbs/MMBTU.
(g)(1)(vi)(A)—coal fired CFB unit ≥250 MMBTU/hr	0.20 lbs/MMBTU	0.16 lbs/MMBTU.
(g)(2)(i)(B)—combined cycle turbine ≥1,000 bhp, <180 MW; fuel oil	75 ppm_{vd} NO_X	96 ppm_{vd} NO_X.
(g)(2)(i)(C)—combined cycle turbine ≥1,000 bhp, <180 MW; natural gas	2 ppm_{vd} VOC	5 ppm_{vd} VOC.
(g)(2)(i)(D)—combined cycle turbine ≥1,000 bhp, <180 MW; fuel oil	2 ppm_{vd} VOC	9 ppm_{vd} VOC.
(g)(2)(iv)(B)—simple cycle turbine ≥6,000 bhp; fuel oil	75 ppm_{vd} NO_X	96 ppm_{vd} NO_X.
(g)(3)(i)(B)—lean burn stationary internal combustion engine, ≥500 bhp; Natural gas or noncommercial gaseous fuel.	0.4 grams VOC/bhp-hr	1.0 grams VOC/bhp-hr.
(g)(1)(vii)—new limit for solid fuel fired combustion units ≥50 MMBTU/hr	N/A	0.25 lbs/MMBTU.
(g)(1)(viii)—new limit for coal fired units with SCR; when ≥ 600°F	N/A	0.12 lbs/MMBTU.
(g)(1)(ix)—new work practice standard for coal fired units with SNCR	N/A	Inject ammonia.
(g)(2)(iii)(A), (B), (C), and (D)—simple cycle turbine ≥1,000 bhp, <6,000 bhp; firing natural gas or fuel oil.	N/A	150 ppm_{vd} NO_X 9 ppm_{vd} VOC.

Pennsylvania sources relying on the presumptive limits in Pennsylvania's proposed RACT II Rule could find themselves ordering equipment to meet RACT limits that they didn't need because they could meet the increased limit in the final rule without additional equipment or could find themselves ordering inadequate equipment to meet a NO_X limit that was lowered by the final rule.

On April 6, 2017, EPA proposed approval of revisions to Connecticut's RACT regulations for the 2008 ozone NAAQS. *See* 83 FR 16772. These revisions included new NO_X limits for MWCs with a compliance date of August 2, 2017, and new NO_X limits for boilers, turbines, and reciprocating internal combustion engines (RICE) with a compliance date of June 1, 2018. *See* 83 FR 16772, 16773 (April 6, 2017). Among other reasons, EPA justified these compliance deadlines beyond the January 1, 2017 Federal regulatory deadline because the sources subject to the new RACT limits were a small subset of all the facilities subject to RACT and were already subject to RACT controls in the SIP that would be further tightened by the new revisions. *See* 83 FR 16772, 16776. EPA also justified the post-January 2017 dates based on the fact that it was impossible for sources to retroactively meet the January 1, 2017 deadline, and agreed with Connecticut's determination that given the August 2, 2016 and December 22, 2016 state effective dates for the new MWC limits and combustor limits, respectively, it would not be reasonable to require immediate compliance. Likewise, for Pennsylvania, EPA finds it would be impossible for sources today to retroactively meet the January 1, 2017 deadline for implementation of RACT. Like Connecticut, Pennsylvania had also implemented in its SIP RACT requirements on all major sources of NOx and VOCs for the prior 1-hour ozone NAAQS. *See* 40 CFR 52.2020(d). In addition, for sources needing installation of controls to meet requirements of the RACT II Rule after the Rule became state effective in 2016, such sources needed time to select controls, apply for permits and implement, install and begin operating such controls to meet RACT II Rule limits.

For the above reasons, EPA finds the provisions in Pennsylvania's rules providing for additional time to comply in 25 Pa. Code section 127.97 and 127.99 allowed sources installing new emission controls to meet RACT a reasonable time to comply. Thus, EPA is approving the provisions in 129.97 and conditionally approving the provisions of 129.99.

G. Other Comments

Comment 31: The commenter asks whether section 129.96(d), which states that the requirements of sections 129.96–129.100 do not apply to the owner and operator of a facility which is not a major NO_X or major VOC emitting facility on or before January 1, 2017, would allow an otherwise major NO_X or VOC source to obtain a synthetic minor permit before 1/1/17 to avoid 2008 RACT, then ''shed'' its minor status after 1/1/17 and remain not subject to 2008 RACT. The commenter argues that facilities that become synthetic minor NO_X or VOC sources before January 1, 2017 to avoid RACT should take enforceable permit limits and that such limits should be submitted to EPA for approval into the SIP.

Response 31: EPA acknowledges that, generally, major sources may take enforceable restrictions to reduce their facility-wide potential emissions to avoid the definition of a major NO_X or VOC source. However, EPA interprets that because the RACT II Rule is only applicable to sources that met the ''major NO_X/VOC source definition'' by January 1, 2017, any major sources without Federally-enforceable restrictions by such date must be required to comply with the RACT II Rule.

Furthermore, if any facility which takes such restrictions seeks to later ''shed'' its minor source status after January 1, 2017, the facility would then become a major source through its ''modification'' and would then be subject to the RACT II Rule via 25 Pa Code 129.96(b). This subsection requires facilities that become a major source to be subject to the RACT II Rule which has ongoing applicability. Thus, EPA believes it is unnecessary to require enforceable restrictions to be submitted to EPA for SIP approval as the facility would be subject to the RACT II Rule if it shed its minor limits and became a major source of NO_X or VOC.

Comment 32: The commenter argues that EPA's approval of section 129.97(b)(1)(i)–(iii), requiring biennial tune-up for units between 20 to 50 MMBTU/hr, would be backsliding as there are similar RACT provisions previously approved in the Pennsylvania SIP, in 25 Pa. Code sections 129.91–95, that are more stringent because they require annual tune-ups.

Response 32: EPA disagrees with the commenter's assertion that EPA is allowing ''backsliding'' by approving the provisions in section 129.97(b)(1). Commenter seems to be referring to the provisions in 129.92(b)(2)(i)–(iii), which also require tune-up for units between 20 to 50 MMBTU/hr, but on an annual basis. EPA acknowledges that the requirements in section 129.92(b)(2)(i)–

(iii) require an annual tune-up, while section 129.97(b)(1)(i)–(iii) only requires a tune-up once every two years. However, EPA does not believe that relaxation of the SIP is occurring because section 129.97(i) requires sources to comply with section 129.97 unless a RACT permit issued prior to April 23, 2016 under 129.91–95 has more stringent requirements or limits. Based on the requirement in section 129.97(i), individual sources in Pennsylvania with RACT permits issued prior to April 23, 2016 would not be backsliding because they would remain subject to the more stringent annual tune-up requirements of 129.92(b)(2)(i)–(iii). Only relatively newer sources (not subject to the prior RACT requirement for annual tune up) would be subject to the biennial tune-up requirements of section 129.97(b)(1)(i)–(iii). Thus, EPA believes any relaxation concerns with respect to tune-up requirements for units between 20 to 50 MMBTU/hr are fully addressed by the provisions of section 129.97(i).

Comment 33: Commenter requests EPA to justify how the provisions in section 129.97(c) and (d), requiring owners or operators to install, maintain, and operate the source in accordance with the manufacturer's specifications and with good operating practices, are enforceable as a practical matter.

Response 33: The requirement to ''install, maintain and operate the source in accordance with the manufacturer's specifications'' is a practically enforceable requirement as the manufacturer specifications for control equipment at any particular source are usually available and defined. A requirement to operate in line with ''good operating practices'' is practically enforceable because good operating practices can be defined within a source or industry. This is consistent with EPA's prior approval of similar RACT provisions for the Commonwealth.

Comment 34: One commenter alleges that EPA cannot rely on the document titled ''PADEP's RACT II Supplemental Submittal'' for its rulemaking action, as this document did not undergo adequate public participation as a SIP revision, as required in 40 CFR 51.102, 51.103, 51.104 and Appendix V.

Response 34: EPA is relying only on that portion of PADEP's September 26, 2017 submittal (titled ''PADEP's RACT II Supplemental Submittal'') that contains PADEP's commitments to further supplement the SIP within one year of EPA's final conditional approval. Information in PADEP's supplemental submittal that is not relevant to PADEP's commitment to address EPA's conditions is not needed nor relied upon in EPA's rulemaking herein. The nature of a conditional approval under CAA section 110(k)(4) is such that when EPA's review of a formal SIP submission identifies a deficiency in the SIP that could be remedied by state action within one year of the final conditional approval, the NPRM sets forth the conditions the state must satisfy within one year to correct the deficiencies. The state must provide a committal letter to EPA stating that it will fulfill EPA's requirements for the commitment. The opportunity for public comment upon the adequacy of EPA's conditions and the ability of the state to meet those conditions occurs during the public comment period announced by the NPRM. EPA does not consider a state's conditional approval committal letter to be a SIP revision under 40 CFR 51.102(a), 51.103, 51.104, or the completeness criteria in Appendix V to Part 51. The provisions in Appendix V related to requirements for states to conduct public hearing and follow state administrative procedural requirements relate to the plan submitted by the state. Pennsylvania complied with requirements in 40 CFR part 51 and Appendix V relating to submission of its ''plan'' or SIP submittal (*i.e.,* the May 16, 2016 SIP submittal which includes provisions in 25 Pa. Code 121.1, 129.96, 129.97, 129.98, 129.99 and 129.100). Pennsylvania's supplemental material from September 2017 was additional supportive information Pennsylvania had regarding its RACT provisions and was about Pennsylvania's commitment to submit alternative RACT requirements and emission limitations to EPA for SIP approval. Thus, EPA disagrees with the commenter that Pennsylvania's September 26, 2017 provision to EPA needed to undergo additional ''public participation as a SIP revision.''

Comment 35: The commenter claims EPA should better define the conditional nature of EPA's approval and EPA should fully develop methods and conditions which Pennsylvania would need to address for full approval.

Response 35: EPA disagrees with the commenter. EPA's NPRM clearly specified what PADEP needed to do to correct the deficiencies identified in the NPRM relating to section 129.98 NO_X averaging provision and section 129.99 for alternative RACT requirements or emission limitations. *See* 83 FR 11155, 11160–62. EPA has also restated the conditions and deficiencies in this rulemaking. *See* Section II of this rulemaking action.

Comment 36: The commenter claims that section 129.98 and 129.99 do not conform with CAA section 110(a)(2)(A), as they are not practically and Federally enforceable, and recommends EPA to disapprove these provisions until Pennsylvania adopts specific enforceable measures.

Response 36: The commenter has not provided adequate argument, analysis, or specific information for EPA to account for this comment. Thus, no further response is needed. However, EPA will note that we are conditionally approving section 129.98 and 129.99 based on the deficiencies we identified in the NPRM and based on Pennsylvania's commitment to submit permits and plans to EPA for SIP approval. With respect to the issue of practical enforceability as it pertains to section 110(a)(2)(A), EPA finds that section 129.99 is practically enforceable, as the regulation lays out the process for sources to obtain source-specific RACT requirements for affected sources. PADEP would then subsequently submit to EPA such permits for approval into the SIP. EPA proposed conditional approval of section 129.99 because it lacked a date certain by which PADEP would submit the relevant source-specific RACT SIP revisions to EPA.

As discussed in detail in the NPRM and in this action, EPA did have concerns with enforceability of 129.98 and thus we are conditionally approving 129.98. EPA's conditional approval of these provisions will ensure that practical, enforceable RACT emissions limits are established under 25 Pa. Code sections 129.98 and 129.99, consistent with CAA section 110(a)(2)(A).

Comment 37: Commenter believes that the required elements of section 110(a)(2) of CAA have been fully addressed by PADEP's SIP submittal for the RACT II Rule, particularly referring to section 110(a)(2)(A), (C), and (F). The commenter asserts that a specific method of compliance is not required under section 110(a)(2), if the applicable emission limits and related requirements are already part of the rule.

Response 37: EPA identified deficiencies in 25 Pa. Code section 129.98 pertaining to the requirement in CAA section 110(a)(2)(A) for enforceable limits because 129.98 did not adequately establish how to compute an alternative NO_X emissions limitation and/or adequately specify the methods for demonstrating compliance and recordkeeping and reporting requirements for emissions averaging. EPA's conditional approval of 25 Pa. Code section 129.98 will ensure that practical enforceable emissions limits for CAA 110(a)(2) are established as

RACT through SIP approval of each averaging plan.

IV. Terms of the Conditional Approval

On September 26, 2017, PADEP submitted a letter detailing its commitments to provide additional SIP revisions to correct various deficiencies identified by EPA as present in the May 16, 2016 SIP submittal. In that letter, PADEP committed to submitting to EPA, for approval into the SIP, any facility-wide or system-wide averaging plan approved under 25 Pa. Code section 129.98 and any source-specific RACT determinations under 25 Pa. Code section 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval.

Therefore, as authorized in CAA section 110(k)(3) and (k)(4), Pennsylvania shall submit the following as source-specific SIP revisions for EPA's approval as a condition of approval of 25 Pa. Code 128 and 129 in the May 16, 2016 SIP revision: (1) All facility-wide or system-wide averaging plans approved by PADEP under 25 Pa. Code section 129.98 including, but not limited to, any terms and conditions that ensure the enforceability of the averaging plan as a practical matter (*e.g.,* any monitoring, reporting, recordkeeping, or testing requirements); and (2) all source-specific RACT determinations approved by PADEP under 25 Pa. Code section 129.99, including any alternative compliance schedules approved under section 129.97(k) and 129.99(i); the source-specific RACT determinations submitted to EPA for approval into the SIP should include any terms and conditions that ensure the enforceability of the source-specific RACT emission limitation as a practical matter (*e.g.,* any monitoring, reporting, recordkeeping, or testing requirements).

V. Final Action

EPA is fully approving 25 Pa. Code sections 121.1, 129.96, 129.97, and 129.100 as meeting certain aspects of major stationary source RACT in CAA section 172, 182, and 184 for the 1997 and 2008 ozone NAAQS submitted May 16, 2016. EPA is also conditionally approving 25 Pa. Code sections 129.98 and 129.99 based on the commitment provided by Pennsylvania to submit additional SIP revisions to address the deficiencies identified by EPA in the May 16, 2016 SIP revision. Upon submission of all elements intended to meet the conditions identified in Section IV of this rulemaking action, Pennsylvania must submit a SIP revision certifying that it has met all conditions. Once EPA has determined that Pennsylvania has satisfied these conditions, EPA shall remove the conditional nature of this approval and Pennsylvania's 1997 and 2008 8-hour ozone RACT SIP revision will, at that time, receive a full approval status. Should Pennsylvania fail to meet the conditions specified in Section IV, the final conditional approval of 25 Pa. Code sections 129.98 and 129.99 shall automatically convert to a disapproval and EPA will issue a finding of disapproval. A finding of disapproval would start an 18-month clock to apply sanctions under CAA section 179(b) and a two-year clock for a Federal implementation plan under CAA section 110(c)(1).

VI. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following sections of 25 Pa. Code with a state effective date of April 23, 2016: 25 Pa. Code section 121.1, 129.96, 129.97, 129.98, 129.99 and 129.100; the list of definitions contained in 121.1 and the changes being made can be found in the TSD for this rulemaking action. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[23]

VII. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

[23] 62 FR 27968 (May 22, 1997).

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action, on Pennsylvania's RACT II Rule, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 25, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by adding:

■ a. Under ''Chapter 121—General Provisions,'' an entry for ''Section 121.1'' after an existing entry for ''Section 121.1''; and

■ b. Under ''Chapter 129—Standards for Sources,'' after the entry for ''129.95'', a subheading entitled ''Additional RACT Requirements for Major Sources of NO_X and VOCs'' and the entries ''Section 129.96'' through ''Section 129.100'' in numerical order.

The additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) * * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection Article III—Air Resources				
Chapter 121—General Provisions				
*	*	*	*	*
Section 121.1	Definitions	4/23/16	5/9/19, [insert **Federal Register** citation].	Revises the following definitions: ''CEMS—Continuous emission monitoring system,'' ''Major NO_X emitting facility,'' ''Major VOC emitting facility,'' and ''Stationary internal combustion engine *or* stationary reciprocating internal combustion engine.'' Adds new definitions for the following terms: ''Process heater,'' ''Refinery gas,'' ''Regenerative cycle combustion turbine,'' ''Simple cycle combustion turbine,'' and ''Stationary combustion turbine.''
*	*	*	*	*
Chapter 129—Standards for Sources				
*	*	*	*	*
Additional RACT Requirements for Major Sources of NO_X and VOCs				
Section 129.96	Applicability	4/23/16	5/9/19, [insert **Federal Register** citation].	New section.
Section 129.97	Presumptive RACT requirements, RACT emission limitations, and petition for alternative compliance schedule.	4/23/16	5/9/19, [insert **Federal Register** citation].	New section.
Section 129.98	Facility-wide or system-wide NO_X emissions averaging plan general requirements.	4/23/16	5/9/19, [insert **Federal Register** citation].	Conditionally approved. See 40 CFR 52.2023(m).
Section 129.99	Alternative RACT proposal and petition for alternative compliance schedule.	4/23/16	5/9/19, [insert **Federal Register** citation].	Conditionally approved. See 40 CFR 52.2023(m).
Section 129.100	Compliance demonstration and recordkeeping requirements.	4/23/16	5/9/19, [insert **Federal Register** citation].	New section.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	* *

* * * * *

■ 3. Section 52.2023 is amended by adding reserved paragraph (l) and adding paragraph (m) to read as follows:

§ 52.2023 Approval status.

* * * * *

(m) EPA conditionally approves Pennsylvania's 25 Pa Code sections 129.98 and 129.99 submitted on May 16, 2016 to address the reasonably available control technology (RACT) requirements under CAA sections 182(b)(2)(C), 182(f), and 184 under the 1997 and 2008 8-hour ozone NAAQS. Pursuant to CAA section 110(k)(4), this conditional approval is based upon a September 26, 2017 letter from Pennsylvania to submit to EPA, no later than 12 months from EPA's final conditional approval, additional SIP revisions to address the deficiencies identified. The SIP revisions, to be submitted by Pennsylvania, include:

(1) All facility-wide or system-wide averaging plans approved by PADEP under 25 Pa Code 129.98 including but not limited to any terms and conditions that ensure the enforceability of the averaging plan as a practical matter, and

(2) All source-specific RACT determinations approved by PADEP under 25 Pa Code 129.99, including any alternative compliance schedules approved under §§ 129.97(k) and 129.99(i); the source-specific RACT determinations submitted to EPA for approval into the SIP shall include any terms and conditions that ensure the enforceability of the source-specific RACT emission limitation as a practical matter.

[FR Doc. 2019–09478 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACQUISITION REGULATION

48 CFR Ch. 1

Types of Contracts

CFR Correction

■ In Title 48 of the Code of Federal Regulations, Chapter 1 (Parts 1 to 51), revised as of October 1, 2018, on page 389, in § 16.505, paragraph (a)(7)(iv) is reinstated to read as follows:

§ 16.505 Ordering.

* * * * *

(a) * * *

(7) * * *

(iv) Delivery or performance schedule.

* * * * *

[FR Doc. 2019–09628 Filed 5–8–19; 8:45 am]

BILLING CODE 1301–00–D

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1002 and 1312

[Docket No. EP 743]

Water Carrier Tariff Filing Procedures

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (STB or Board) adopts a new procedure for water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection.

DATES: This rule is effective on June 8, 2019.

ADDRESSES: Requests for information or questions regarding this final rule should reference Docket No. EP 743 and be submitted via the Board's e-filing format or in writing addressed to: Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's website at *www.stb.gov* at the E-Filing link.

FOR FURTHER INFORMATION CONTACT: Michael Higgins at 202–245–0284. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: In April 2017, the Board established its Regulatory Reform Task Force (RRTF) to comply with the spirit of Executive Order 13777. The primary objective of the RRTF is to identify Board rules and practices that are burdensome, unnecessary, or outdated and to recommend how they should be addressed. *See Regulatory Reform Task Force,* EP 738 (STB served June 20, 2017). The RRTF identified the current water carrier tariff regulations at 49 CFR part 1312 as imposing unnecessary costs on the carriers as well as the Board. *See* RRTF 90-Day Status Report (issued May 25, 2017); RRTF Status Report (issued Nov. 21, 2017).[1] Water carriers operating in the noncontiguous domestic trade[2] are required to publish, file, and keep available for public inspection tariffs setting forth their rates, charges, rules, and classifications. 49 U.S.C. 13702(a)–(b).[3] The Board's current regulations for filing water carrier tariffs contemplate the filings of tariffs with the Board in paper format. However, the Board has granted Special Tariff Authority—relief from the current regulations on a case-by-case basis—to allow water carriers to file their tariffs in alternative electronic formats, typically email.[4] For many carriers, these email submissions are a daily occurrence.

The Board issued a notice of proposed rulemaking that proposed to update the regulations to allow water carriers[5] to electronically publish, file, and keep tariffs available for public inspection. *Water Carrier Tariff Filing Procedures* (*NPRM*), EP 743 (STB served Dec. 21, 2018) (83 FR 66229).[6] The Board received comments on the *NPRM* from Tropical Shipping and Construction Co., Ltd. (Tropical), The Pasha Group (Pasha), and TOTE, LLC (TOTE). After considering the comments, the Board is adopting the rule proposed in the *NPRM,* without substantive change, as a final rule. The text of the final rule is below.

Proposed Rule. The *NPRM* proposed to revise 49 CFR part 1312 to include regulations which would allow water carriers to publish, file, and keep their tariffs electronically, but would also continue to allow water carriers the option of filing their tariffs in paper format. Specifically, under the proposal, a water carrier would be permitted to comply with the filing requirement in

[1] These status reports can be accessed on the Board's website.

[2] Noncontiguous domestic trade means ''transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.'' 49 U.S.C. 13102(17).

[3] Section 13702(a)(1) includes an exception from the tariff filing requirement for bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste.

[4] Under 49 CFR 1312.2(e), a water carrier may apply for Special Tariff Authority.

[5] Many water carriers use third-party service providers to manage and maintain their tariffs on the internet.

[6] The *NPRM* provides additional information on the background of water carrier tariff requirements.

49 U.S.C. 13702 by: (1) Maintaining a publicly available version of its current and historical tariffs on the internet, and (2) electronically filing (e-filing) with the Board an annual certification made by a duly authorized corporate officer of the carrier that (a) contains an active link [7] to the internet location and access information for its tariffs and (b) affirms the water carrier's continuing compliance with the relevant sections of Part 1312. The proposed regulation, at 49 CFR 1312.4(b), listed the requirements for the annual certification and provided sample language to be used in the certification.

As explained in the *NPRM* and proposed at 49 CFR 1312.4(b)(3), advance notification to the Board would be required if a water carrier anticipates an outage of its electronic tariff system. *NPRM,* EP 743, slip op. at 5. In circumstances beyond the carrier's control (such as a software malfunction), the carrier would be required to notify the Board promptly via email at *tariffs@stb.gov*. *Id.* In the event of any tariff system outage, carriers would be required to make alternative arrangements with the Board to ensure that the agency and public have access to the tariffs in effect during the outage, and the Board would provide that information on its website so that the public would be made aware of the particular outage as soon as reasonably possible. *Id.*

The proposed electronic archiving requirement under 49 CFR 1312.4(b)(4) would require a water carrier to maintain historical versions of its tariffs, including all rates and applicable rules, for a period of not less than five years, beginning when a carrier first electronically files its tariffs. *Id.* at 11. Tariffs kept on the internet would also need to comply with the proposed addition to 49 CFR 1312.3, requiring that water carriers provide the date on which tariffs or changes to tariffs first appear on the internet and the date on which they are expected to become effective. *Id.* at 5. The rule would not prescribe the specific information technology resources (programming, applications or software, etc.) that water carriers must use to house this information, but any electronic system selected by a carrier would need to comply with regulatory requirements and allow access by the Board and any member of the public who requests it, free of charge. *Id.*

The *NPRM* explained that to utilize e-filing, a filer would first pay the required fee [8] via electronic payment through *Pay.gov*.[9] *NPRM,* EP 743, slip op. at 4. Once the payment has been submitted, a confirmation email from *Pay.gov* would be sent containing a unique transaction number. The filer would then go to the Board's e-filing website and, through a registered account, submit the transaction number received from *Pay.gov* and attach the annual certification. Once the certification is received and verified, the Director of the Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) or a designee would acknowledge receipt of the annual certification in writing. *Id.*

Under the proposed regulations, the Board would create a web page that provides links to the location of a water carrier's current tariff, the most recent annual certification, and prior certifications. *NPRM,* EP 743, slip op. at 4. It is expected that this web page could be accessed by the Board and public and that the internet links to water carrier tariffs would be available 24 hours a day, seven days a week, year-round. *Id.* at 4–5. Access to water carrier tariffs filed in paper format would continue to be available to the public via requests to OPAGAC.

By adding an e-filing option to the regulations, the proposed rule would eliminate the option to obtain tariff filing relief under the existing Special Tariff Authority application process, and would revoke all prior grants of Special Tariff Authority. *NPRM,* EP 743, slip op. at 4 (citing 49 CFR 1312.2(e)). The proposed changes would require water carriers to either file their tariffs in paper format or electronically as outlined here.

Comments. As noted above, the Board received comments on the *NPRM* from Tropical, Pasha, and TOTE. The comments uniformly supported the proposal to allow water carriers to publish, file, and keep their tariffs electronically. Tropical and Pasha both state that the proposal would reduce the regulatory burden on water carriers, allowing them to function in a more efficient and less costly manner. (Tropical Comments 2; Pasha Comments 2.) TOTE supports the comments submitted by Tropical and Pasha, and states that its subsidiaries would realize substantial savings from the proposed rule, and that the public interest will be protected through the Board's ongoing regulatory oversight of water carriers. (TOTE Comments 2.)

Final Rule. After considering the comments, the Board is adopting the rule proposed in the *NPRM,* without substantive change, as a final rule. The only modification from the proposed electronic filing procedure is changing the due date for the annual certification from the first business day of February to the first business day of October in order to allow water carriers to more quickly utilize this option. Water carriers may continue to file under their existing Special Tariff Authority until the first due date of the annual certification, which will be October 1, 2019, at which time grants of Special Tariff Authority will be automatically revoked.[10] It is anticipated that the final rule will significantly reduce the burdens associated with the current tariff filing requirements. The new e-filing tariff procedures will also allow the public to easily access current and historical tariffs without requesting them from the Board, resulting in time and cost savings for both the Board and the public. The text of the final rule is below.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its final rule, the agency must either include a final regulatory flexibility analysis, section 604(a), or certify that the final rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b). The impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

In the *NPRM,* the Board certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant

[7] To comply with the proposed rule, if the internet address for a water carrier's tariff system changes during the 12-month period following the filing of its annual certification, the water carrier would need to adhere to the proposed outage requirements at 49 CFR 1312.4(b)(3) and provide the Board an updated certification with an active link as soon as possible.

[8] The Board proposed an expansion of fee item 78 at 49 CFR 1002.2(f), to reflect the filing fee associated with the annual certification. The final rule adopted here also adds a heading to paragraph (b) of § 1002.2.

[9] Recently, the Board updated its regulations to add an electronic payment option at 49 CFR 1002.2(a). *See Payment, Filing, & Service Procedures,* EP 747 (STB served Mar. 22, 2019) (84 FR 12940). As of May 10, 2019, the Board will accept electronic payment of fees through Pay.gov.

[10] Water carriers that have filed tariff updates within the past year will be served a copy of this decision.

economic impact on a substantial number of small entities within the meaning of the RFA.[11] The Board explained that the proposed rule would not place any additional burden on small entities because the proposed rule would provide new procedures for water carriers operating in noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection. The new regulations would be an option to eliminate the burdens associated with the current tariff filing requirements. No parties submitted comments on this issue. A copy of the *NPRM* was served on the U.S. Small Business Administration.

The final rule adopts the procedures proposed in the *NPRM,* with the revision of the due date for the annual certification. Therefore, the Board certifies under 5 U.S.C. 605(b) that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

Paperwork Reduction Act. In this proceeding, the Board is modifying an existing collection of information that is currently approved by the Office of Management and Budget (OMB) under OMB Control No. 2140–0026. In the *NPRM,* the Board sought comments pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, and OMB regulations at 5 CFR 1320.11 regarding: (1) Whether the collection of information associated with the proposed changes to the OFA regulations is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. No comments were received pertaining to the collection of this information under the PRA.

This modification to an existing collection will be submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11.

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rule will be published in the **Federal Register**.

2. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

3. This decision is effective June 8, 2019.

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information.

49 CFR Part 1312

Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads, Reporting and recordkeeping requirements.

Decided: May 6, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board amends parts 1002 and 1312 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 is revised to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A), (a)(6)(B), and 553; 31 U.S.C. 9701; and 49 U.S.C. 1321. Section 1002.1(f)(11) is also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

■ 2. Amend § 1002.2 as follows:

■ a. In paragraph (b), add a paragraph heading; and

■ b. Revise paragraph (f)(78).

The addition and revision read as follows:

§ 1002.2 Filing fees.

* * * * *

(b) *Nonpayment of fees.* * * *

(f) * * *

Type of proceeding	Fee
* * * * *	
Part VI: Informal Proceedings:	
* * * * *	
(78) (i) The filing of tariffs, including supplements, or contract summaries	$1 per page. ($29 min charge.)
(ii) The filing of water carrier electronic annual certifications	$29.
* * * * *	

* * * * *

PART 1312—REGULATIONS FOR THE PUBLICATION, FILING, AND KEEPING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN NONCONTIGUOUS DOMESTIC TRADE

■ 3. The authority citation for part 1312 is revised to read as follows:

Authority: 49 U.S.C. 1321(a), 13702(a), 13702(b), and 13702(d).

■ 4. The heading of part 1312 is revised to read as set forth above.

■ 5. Amend § 1312.1(c) by revising the definition of ''Publication'' to read as follows:

§ 1312.1 Scope; definitions.

* * * * *

(c) * * *

Publication means a bound tariff, a tariff supplement, a looseleaf tariff page, or an electronically published tariff.

* * * * *

■ 6. Amend § 1312.2 by revising paragraph (b), removing paragraph (e), and redesignating paragraph (f) as paragraph (e) to read as follows:

[11] The Small Business Administration's Office of Size Standards has established a size standard for water transportation, pursuant to which deep sea freight transportation is considered small if its number of employees is 500 or less, and coastal and Great Lakes freight transportation is considered small if its number of employees is 750 or less. 13 CFR 121.201 (industry subsector 483).

§ 1312.2 Requirement to publish and file a tariff.

* * * * *

(b) *Adherence to tariff.* The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

* * * * *

■ 7. Amend § 1312.3 by revising paragraph (a) to read as follows:

§ 1312.3 Tariff contents and standards; Essential criteria.

(a) *Contents.* Tariffs filed with the Board, including tariffs published, filed, and kept electronically in accordance with § 1312.4(b), must: Be filed in English; include an accurate description of the services offered to the public; provide the specific applicable rates explicitly stated in U.S. dollars and cents (or the basis for calculating the specific applicable rates) and service terms; and be arranged in a way that allows for the determination of the exact rate(s) and service terms applicable to any given shipment (or to any given group of shipments). Tariffs that are electronically kept on the internet must also provide the date on which a new tariff or any change in any tariff matter first appears on the internet and the date on which it becomes effective.

* * * * *

■ 8. Revise § 1312.4 to read as follows:

§ 1312.4 Filing of tariffs.

(a) *Paper filing requirements.* (1) Two copies of each tariff publication shall be filed with the Board. Packages containing tariff filings should be prominently marked ''TARIFF FILING'' and addressed to: Office of Public Assistance, Governmental Affairs and Compliance, Surface Transportation Board, Washington, DC 20423–0001. Tariffs shall be printed on paper not larger than 8½ x 11 inches.

(2) A paper tariff filing must be accompanied by an authorized document of transmittal identifying each publication filed, and by the appropriate filing fee (see 49 CFR part 1002). Acknowledgement of Board receipt of a paper tariff filing can be obtained by enclosing a duplicate transmittal letter and a postage-paid, self-addressed return envelope. Each transmittal letter shall clearly indicate in the upper left-hand corner thereof:

(i) The assigned alpha code of the issuing carrier or agent;

(ii) The number of pages transmitted;

(iii) The filing fee enclosed (pursuant to 49 CFR 1002.2(a)); and

(iv) The transmittal number if the filer utilizes transmittal numbers.

(b) *Electronic filing requirements.* As an alternative to the paper tariff filing procedures set forth in paragraph (a) of this section, a water carrier may file its tariffs electronically in accordance with the procedures and requirements of this section. Tariffs published, filed, and kept electronically in accordance with the requirements of this section shall be deemed to be on file with the Board for purposes of 49 U.S.C. 13702(b).

(1) *Annual certification.* A water carrier that seeks to file its tariff electronically must electronically file an annual certification with the Board, made by the water carrier's duly authorized corporate officer. The annual certification must be submitted to the Board on the first business day in October each year. The Director of the Office of Public Assistance, Governmental Affairs, and Compliance or a designee will acknowledge receipt of each carrier's certification in writing. The annual certification shall include the following:

(i) Certification that it is a water carrier operating in the noncontiguous domestic trade subject to the Board's jurisdiction;

(ii) Certification that it is in compliance with the regulations of this section for purposes of publishing, filing, and keeping its tariff electronically;

(iii) Certification that it is in compliance with all other regulations in this part, except those specifically applicable to tariffs maintained in paper format;

(iv) An active link to the internet address of tariffs;

(v) The assigned alpha code of the issuing carrier or agent; and

(vi) Confirmation of electronic payment of the filing fee (pursuant to 49 CFR 1002.2(a)).

(2) *Sample text for the annual certification.*

[Name of Director, Office of Public Assistance, Governmental Affairs, and Compliance], Office of Public Assistance, Governmental Affairs and Compliance, Surface Transportation Board, Washington, DC.

Dear Director: I, [name of signor], certify that I am [title of office] of [name of water carrier], a water carrier operating in the noncontiguous domestic trade subject to the jurisdiction of the Surface Transportation Board, that [name of water carrier] is in compliance with the regulations at part 1312 for purposes of publishing, filing, and keeping its tariff electronically, and that it is in compliance with all other regulations at part 1312, except those specifically applicable to tariffs maintained in paper format.

The internet address where [name of water carrier]'s tariffs can be located is:

This internet address is current as of [date].

I further declare (certify, verify or state) under penalty of perjury [''under the laws of the United States of America'' if executed outside of the United States of America] that the foregoing is true and correct. Executed on [date].

Sincerely,

[signature of a duly authorized corporate officer of water carrier]

(3) *Tariff access requirement.* (i) A water carrier must provide the Board with at least two business days advance notice of any planned outage when its tariff will not be available on the internet, and prompt notice on any occasion when the tariff becomes unavailable due to circumstances beyond the carrier's control. Notice shall be submitted by email to *tariffs@stb.gov*. In the event of any outage, carriers are required to make alternative arrangements with the agency to ensure that the Board receives the tariffs in effect during the outage.

(ii) A water carrier may establish reasonable registration requirements for purposes of public access to its current tariff and historical tariff information, such as requiring a user to provide his or her name and email address; however, such requirements may not limit tariff access to any particular group or class of users (such as shippers or potential shippers) or impose unreasonable burdens on the user, such as access fees or a showing of need.

(4) *Historical tariff information and archiving.* Tariffs kept on the internet by a water carrier must allow the Board and the public to retrieve historical versions, including all rates and applicable rules, for a period of not less than five years, beginning on the date when a carrier first electronically files its tariffs under these regulations.

■ 9. Amend § 1312.6 by adding paragraph (e) to read as follows:

§ 1312.6 Advance notice required.

* * * * *

(e) *Notice for purposes of electronically filed tariffs.* A water carrier that keeps its tariffs on the internet must comply with the notice requirements set forth in paragraph (b) of this section, provided however, that the relevant notice periods set forth in paragraphs (b)(1) and (2) of this section

shall run from the date on which the tariff matter first appears in the water carrier's tariff on the internet.

■ 10. Amend § 1312.12 by adding paragraph (c) to read as follows:

§ 1312.12 Posting requirements.

* * * * *

(c) *Exemption for electronically filed tariffs.* A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) is exempt from the posting requirements of this section.

■ 11. Amend § 1312.13 by adding paragraph (g) to read as follows:

§ 1312.13 Furnishing copies of tariff publications.

* * * * *

(g) *Exemption for electronically filed tariffs.* A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) is exempt from this section.

■ 12. Amend § 1312.15 by adding a sentence at the end of paragraph (a) and a sentence at the end of paragraph (b) to read as follows:

§ 1312.15 Change of carrier or agent.

(a) * * * A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) shall promptly submit any such change by email to *tariffs@stb.gov*, but in no case later than 20 days after the effective date.

(b) * * * A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) shall promptly submit any such change of agent by email to *tariffs@stb.gov*, but in no case later than 200 days after the effective date.

[FR Doc. 2019–09564 Filed 5–8–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02]

RIN 0648–XH007

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason Angling category retention limit adjustment.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) daily retention limit that applies to vessels permitted in the Highly Migratory Species (HMS) Angling category and the HMS Charter/Headboat category (when fishing recreationally for BFT) should be adjusted for the remainder of 2019, based on consideration of the regulatory determination criteria regarding inseason adjustments. NMFS is adjusting the Angling category BFT daily retention limit from the default of one school, large school, or small medium BFT to two school BFT and one large school/small medium BFT per vessel per day/trip for private vessels with HMS Angling category permits; to three school BFT and one large school/small medium BFT per vessel per day/trip for *charter boat* vessels with HMS Charter/Headboat permits when fishing recreationally; and to six school BFT and two large school/small medium BFT per vessel per day/trip for *headboat* vessels with HMS Charter/Headboat permits when fishing recreationally. These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT.

DATES: Effective May 11, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260 or Larry Redd, 301–427–8503.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in Amendment 7 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

As a method for limiting fishing mortality on juvenile BFT, ICCAT recommends a tolerance limit on the annual harvest of BFT measuring less than 115 centimeters (cm) (45.3 inches) (straight fork length) to no more than 10 percent by weight of a Contracting Party's total BFT quota. Any overharvest of such tolerance limit from one year must be subtracted from the tolerance limit applicable in the next year or the year after that. NMFS implements this provision by limiting the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) as appropriate to not exceed the 10-percent limit (127.3 mt) annually.

In 2018, NMFS implemented a final rule that established the U.S. BFT quota and subquotas consistent with ICCAT Recommendation 17–06 (83 FR 53191, October 11, 2018). The currently codified baseline U.S. quota is 1,247.86 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). See § 635.27(a). The currently codified Angling category quota is 232.4 mt (127.3 mt for school BFT, 99.8 mt for large school/small medium BFT, and 5.3 mt for large medium/giant BFT).

The Angling category season opened January 1, 2019, and continues through December 31, 2019. The size classes of BFT are summarized in Table 1. Please note that large school and small medium BFT traditionally have been managed as one size class, as described below, *i.e.,* a limit of one large school/small medium BFT (measuring 47 to less than 73 inches). Currently, the default Angling category daily retention limit of one school, large school, or small medium BFT applies (§ 635.23(b)(2)). This retention limit applies to HMS Angling and to HMS Charter/Headboat category permitted vessels (when fishing recreationally for BFT).

As defined at § 600.10, ''charter boat'' means a vessel less than 100 gross tons (90.8 mt) that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire (*i.e.,* uninspected) and ''headboat'' means a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire (*i.e.,* greater than six).

TABLE 1—BFT SIZE CLASSES

Size class	Curved fork length
School	27 to less than 47 inches (68.5 to less than 119 cm).
Large school	47 to less than 59 inches (119 to less than 150 cm).
Small medium	59 to less than 73 inches (150 to less than 185 cm).
Large medium	73 to less than 81 inches (185 to less than 206 cm).
Giant	81 inches or greater (206 cm or greater).

Table 2 summarizes the recreational quota, subquotas, landings, and retention limit information for 2017 and 2018, by size class.

TABLE 2—ANGLING CATEGORY QUOTAS (mt), ESTIMATED LANDINGS (mt), AND DAILY RETENTION LIMITS, 2017–2018

Size class	2017			2018		
	Subquotas and total quota (mt)	Landings (mt)	Amount of subquotas and total quota used (%)	Subquotas and total quota (mt)	Landings (mt)	Amount of subquotas and total quota used (%)
School	108.4	47.1	43	127.3	55.8	44
Large School/Small Medium	82.3	84.5	103	99.8	45.5	46
Trophy: Large Medium/Giant	4.5	10.2	227	5.3	11.3	213
Total	195.2	141.8	73	232.4	112.6	48
Daily Retention Limits (per Vessel)	*January 1 through April 29:* 1 school, large school, or small medium (default). *April 30 through December 31* (82 FR 19615, April 28, 2017): *Private boats:* 2 school *and* 1 large school/small medium. *Charter/Headboats:* 3 school *and* 1 large school/small medium.			*January 1 through April 25:* 1 school, large school, or small medium (default). *April 26 through December 31* (83 FR 18230, April 26, 2018): *Private boats:* 2 school *and* 1 large school/small medium. *Charter/Headboats:* 3 school *and* 1 large school/small medium.		

Adjustment of Angling Category Daily Retention Limit

Under § 635.23(b)(3), NMFS may increase or decrease the Angling category retention limit for any size class of BFT after considering regulatory determination criteria provided under § 635.27(a)(8). Also under § 635.23(b)(3), recreational retention limits may be adjusted separately for specific vessel type, such as private vessels, headboats, or charter boats.

NMFS has considered all of the relevant determination criteria and their applicability to the change in the Angling category retention limit. The criteria and their application are discussed below.

NMFS considered the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)). Biological samples collected from BFT landed by recreational fishermen continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS considered the catches of the Angling category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii)). NMFS anticipates that the full 2019 Angling category quota would not be harvested under the default retention limit. As shown in Table 2, Angling category landings were approximately 73 percent of the 195.2-mt annual Angling category quota in 2017 and 49 percent of the 232.4-mt annual Angling category quota in 2018, including landings of 43 percent of the available school BFT quota in both years.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the adjustment on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). These retention limits would be consistent with the quotas established and analyzed in the 2018 BFT quota final rule, which implemented the ICCAT quota consistent with ATCA, and with objectives of the 2006 Consolidated HMS FMP and amendments, and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. It is also important that NMFS limit landings to the subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the latest stock assessment.

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the full Angling category quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)).

The 2018 school BFT landings represent 4 percent of the total U.S. quota for 2018, well under the ICCAT recommended 10-percent limit. Given that the Angling category landings fell short of the available quota and considering the regulatory criteria above, NMFS has determined that the Angling category retention limit

applicable to participants on HMS Angling and HMS Charter/Headboat category permitted vessels should be adjusted upwards from the default levels. NMFS has also concluded that implementation of separate limits for private, charter boat, and headboat vessels is appropriate, recognizing the different nature, socio-economic needs, and recent landings results of the two components of the recreational BFT fishery. For example, charter operators historically have indicated that a multi-fish retention limit is vital to their ability to attract customers. In addition, Large Pelagics Survey estimates indicate that charter/headboat BFT landings averaged 26 percent of recent recreational landings for 2017 through 2018, with the remaining 74 percent landed by private vessels. NMFS has further concluded that a higher limit for headboats (than charter boats) is appropriate, given the limited number of headboats participating in the bluefin tuna fishery.

Given these considerations, for private vessels with HMS Angling category permits, this action adjusts the limit upwards to two school BFT and one large school/small medium BFT per vessel per day/trip (*i.e.,* two BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). For charter boat vessels with HMS Charter/Headboat permits, this action adjusts the limit upwards to three school BFT and one large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (*i.e.,* three BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). ''Charter boat'' means a vessel less than 100 gross tons (90.8 mt) that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire (*i.e.,* uninspected). For headboat vessels with HMS Charter/Headboat permits, this action adjusts the limit upwards to six school BFT and two large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (*i.e.,* three BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). ''Headboat'' means a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire (*i.e.,* greater than six). These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT. Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, whether a private vessel (fishing under the Angling category retention limit) takes a two-day trip or makes two trips in one day, the day/trip limit of two school BFT and one large school/small medium BFT applies and may not be exceeded upon landing.

NMFS anticipates that the BFT daily retention limits in this action will result in landings during 2019 that would not exceed the available subquotas. Lower retention limits could result in substantial underharvest of the codified Angling category subquota, and increasing the daily limits further may risk exceeding the available quota, contrary to the objectives of the 2006 Consolidated HMS FMP and amendments. NMFS considered input on recreational limits from the HMS Advisory Panel at its March and September 2018 meetings. NMFS is not setting higher school BFT limits than the adjustments listed in Table 1 due to the potential risk of exceeding the ICCAT tolerance limit on school BFT and other considerations, such as potential effort shifts to BFT fishing as a result of current recreational retention limits for New England groundfish and striped bass.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely through the mandatory landings and catch reports. HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.). Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments or closures are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure.*

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement the daily retention limit for the remainder of 2019 at this time is impracticable. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, immediate adjustment to the Angling category BFT daily retention limit from the default levels is warranted to allow fishermen to take advantage of the availability of fish and of quota. NMFS could not have proposed these actions earlier, as it needed to consider and respond to updated data and information from the 2018 Angling category. If NMFS was to offer a public comment period now, after having appropriately considered that data, it would preclude fishermen from harvesting BFT that are legally available consistent with all of the regulatory criteria, and/or could result in selection of a retention limit inappropriately high or low for the amount of quota available for the period.

Fisheries under the Angling category daily retention limit are currently underway and thus prior notice would be contrary to the public interest. Delays in increasing daily recreational BFT retention limit would adversely affect those HMS Angling and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one school, large school, or small medium BFT per day/trip and may exacerbate the problem of low catch rates and quota rollovers. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by

publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.* Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(b)(3), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 6, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–09570 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 90
Thursday, May 9, 2019

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–2019–0319; Product Identifier 2019–NM–005–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) 2002–07–05, which applies to all Airbus Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R series airplanes, and Model A300 F4–605R airplanes. AD 2002–07–05 requires repetitive inspections for cracking of certain fittings, corrective action if necessary, and, for certain airplanes, a modification. AD 2002–07–05 also provides an optional terminating action for the repetitive inspections. Since we issued AD 2002–07–05, we determined that, for certain airplanes, the existing inspection compliance times were not sufficient to address the unsafe condition and needed to be reduced. This proposed AD would require repetitive inspections for cracking of certain fittings, corrective actions if necessary, and, for certain airplanes, a modification, as specified in an European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 24, 2019.

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

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

For the incorporation by reference (IBR) material described in the ''Related IBR material under 1 CFR part 51'' section in **SUPPLEMENTARY INFORMATION**, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *http://www.regulations.gov.*

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–2019–0319; 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 (telephone 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–2019–0319; Product Identifier 2019–NM–005–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 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 NPRM.

Discussion

We issued AD 2002–07–05, Amendment 39–12699 (67 FR 16983, April 9, 2002) (''AD 2002–07–05''), for all Airbus Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R series airplanes, and Model A300 F4–605R airplanes. AD 2002–07–05 requires repetitive inspections for cracking of certain fittings, corrective action if necessary, and, for certain airplanes, a modification. AD 2002–07–05 also provides an optional terminating action for the repetitive inspections. AD 2002–07–05 resulted from reports of cracked frame (FR) 40 aft fittings at stringer 33 on the left and right sides of the fuselage. The cracking has been attributed to local stress concentrations at the upper flange runout of FR40. We issued AD 2002–07–05 to address propagation of cracks on the FR40 aft fittings due to local stress concentrations at the upper flange runout of FR40, which could result in reduced structural integrity of the airplane.

Actions Since AD 2002–07–05 Was Issued

Since we issued AD 2002–07–05, we determined that, for certain airplanes, the existing inspection compliance times were not sufficient to address the unsafe condition and needed to be reduced.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0011R1, dated February 22, 2019 (''EASA AD 2019–0011R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 series

airplanes; Model A300 B4–600 series airplanes; Model A300 B4–600R series airplanes; and Model A300 C4–605R Variant F airplanes; and certain Model A300 F4–605R airplanes. The MCAI states:

> After embodiment of Airbus SB [service bulletin] A300–53–0161, cracks were reported on three aeroplanes. Investigations highlighted that these cracks were caused by a local stress concentration at FR40 upper flange run-out, where the profile of the FR40 changes at the centre wing box connection.
>
> This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.
>
> Subsequently to this finding, Airbus established a High Frequency Eddy Current (HFEC) inspection program for A300 aeroplanes implemented in service through Airbus SB A300–53–0296. In the same time, Airbus launched mod. 10430 in production line associated to SB A300–53–6048 for the retrofit campaign for A300–600. The same HFEC inspection program was defined for A300–600 aeroplanes and included in SB A300–53–6048 instructions.
>
> [Direction Generale de l'Aviation Civile] DGAC France AD F–1998–481–270 [which corresponds to FAA AD 2002–07–05] was published to mandate the embodiment of these two SBs.
>
> DGAC France AD F–2000–038–032 was also published later to mandate Airbus SB A300–53–9017 applicable to A300–600ST aeroplanes.
>
> Since DGAC France AD F–1998–481–270 and F–2000–038–032 were issued, material data used in the frame of fatigue and damage tolerance analysis has been changed. It was determined that the existing threshold and interval values must be reduced for A300–600 and A300–600ST fleet. Consequently, Airbus revised SB A300–53–6048 to Revision 05 and SB A300–53–9017 to Revision 02 to take into account the new thresholds and intervals.
>
> For the reasons described above, this [EASA] AD retains the requirement of DGAC France AD F–1998–481–270R2 and F–2000–038–032R1, which are superseded, and introduces new thresholds and intervals for A300–600 and A300–600ST aeroplanes.
>
> This [EASA] AD is revised to correct a typo in the Applicability, introduces Tables 1a and 1b, replacing original Table 1, to clarify inspection compliance times, and removes Note 1. This revised [EASA] AD also grants credit for actions accomplished using previous revisions of the applicable SB.

For the Model A300–600 airplanes (Model A300 B4–600 series airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R airplanes) that are pre-modification 10430, the initial compliance time is before 7,700 total flight cycles. For the Model A300–600 airplanes that are post-modification 10430, the initial compliance time is before 21,100 total flight cycles. For Model A300 series airplanes, the initial compliance time is between 10,500 total flight cycles and 14,000 total flight cycles, depending on configuration.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2002–07–05, this proposed AD would retain certain requirements of AD 2002–07–05. Those requirements are referenced in EASA AD 2019–0011R1, which, in turn, is referenced in paragraph (g) of this proposed AD.

Explanation of Change to Terminating Action

Paragraph (e) of AD 2002–07–05 states that accomplishment of the modification specified in Airbus Service Bulletin A300–57–6053, Revision 1, dated October 31, 1995; or Revision 02, dated June 2, 1999; or Airbus Service Bulletin A300–53–0297, Revision 2, dated October 31, 1995; terminates the requirements of AD 2002–07–05. However, EASA AD 2019–0011R1 does not include terminating action. Therefore, this proposed AD would not include that terminating action.

Explanation of Change to Credit Service Information

Note 2 of AD 2002–07–05 provides credit for actions accomplished using Airbus Service Bulletin A300–53–6048, dated January 16, 1996. However, EASA AD 2019–0011R1 does not include credit for Airbus Service Bulletin A300–53–6048, dated January 16, 1996. Therefore, this proposed AD would not include that credit.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0011R1 describes procedures for modifying the profile of the FR40 aft fittings for certain airplanes, repetitive HFEC inspections for cracking of certain fittings, corrective actions for any cracking found, and reporting inspections findings. This material 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, and it is publicly available through the EASA website.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and 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 EASA AD 2019–0011R1 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD also would require sending the inspection results to Airbus SAS.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2019–0011R1 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2019–0011R1, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in EASA AD 2019–0011R1 that is required for compliance with EASA AD 2019–0011R1 will be available on the internet *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0319 after the FAA final rule is published.

Costs of Compliance

We estimate that this proposed AD affects 66 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2002–07–05.	Up to 102 work-hours × $85 per hour = $8,670	$874	Up to $9,544	Up to $629,904.
New proposed actions	Up to 37 work-hours × $85 per hour = $3,145	2,550	Up to $5,695	Up to $375,870.

* 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 $5,610, or $85 per product.

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this 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 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) 2002–07–05, Amendment 39–12699 (67 FR 16983, April 9, 2002), and adding the following new AD:

Airbus SAS: Docket No. FAA–2019–0319; Product Identifier 2019–NM–005–AD.

(a) Comments Due Date

We must receive comments by June 24, 2019.

(b) Affected ADs

This AD replaces 2002–07–05, Amendment 39–12699 (67 FR 16983, April 9, 2002) (''AD 2002–07–05'').

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category, as identified in European Aviation Safety Agency (EASA) AD 2019–0011R1, dated February 22, 2019 (''EASA AD 2019–00R1'').

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A300 F4–605R airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of cracked frame (FR) 40 aft fittings at stringer 33 on the left and right sides of the fuselage, and a determination that the existing inspection compliance times were not sufficient to address the unsafe condition and needed to be reduced. We are issuing this AD to address propagation of cracks on the FR40 aft fittings due to local stress concentrations at the upper flange runout of FR40, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0011R1.

(h) Exceptions to EASA AD 2019–0011R1

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0011R1 refers to its effective date, or February 6, 2019 (the effective date of EASA AD 2019–0011, dated January 23, 2019) this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0011R1 does not apply to this AD.

(3) Paragraphs (7) and (8) of EASA AD 2018–0011R1 specify to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(3)(i) or (h)(3)(ii) of this AD.

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

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

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2002–07–05 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0011R1 that are required by paragraph (g) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or 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*): For any service information referenced in EASA AD 2019–0011R1 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC 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) *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.

(j) Related Information

(1) For information about EASA AD 2019–0011R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this EASA AD 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. EASA AD 2019–0011R1 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0319.

(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.

Issued in Des Moines, Washington, on May 1, 2019.

Michael Kaszycki,

Acting Manager, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–09441 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0321; Product Identifier 2019–NM–013–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 A318, A319, A320, and A321 series airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 24, 2019.

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 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–2019–0321; 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–2019–0321; Product Identifier 2019–NM–013–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 2018–0288, dated December 21, 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, A319, A320 and A321 series airplanes. The MCAI states:

> The airworthiness limitations for the Airbus A320 family aeroplanes, which are approved by EASA, are currently defined and published in the A318/A319/A320/A321 ALS document(s). The Damage Tolerant (DT) Airworthiness Limitation Items (ALI) are published in ALS Part 2.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2017–0231 [which corresponds to FAA AD 2018–25–02, Amendment 39–19513 (83 FR 62690, December 6, 2018)] to require accomplishment of all DT ALI maintenance tasks as described in ALS Part 2 at Revision 06.
>
> Since that [EASA] AD was issued, Airbus published the ALS, including new and/or more restrictive requirements, and new A321 models were certified and added to the Applicability.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2017–0231, which is superseded, expands the Applicability and requires accomplishment of the actions specified in the ALS.

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–2019–0321.

Relationship Between Proposed AD and AD 2018–25–02

This NPRM does not propose to supersede AD 2018–25–02. Rather, we have determined that a stand-alone AD is more appropriate to address the changes in the MCAI. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Accomplishment of the proposed actions would then terminate all of the requirements of AD 2018–25–02.

Related Service Information Under 1 CFR Part 51

Airbus has issued A318/A319/A320/A321 Airworthiness Limitation Section Part 2—Damage Tolerant Airworthiness Limitation Items (DT—ALI), Revision 07, dated June 13, 2018. This service information describes damage tolerant airworthiness limitations.

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

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 revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the airworthiness limitation section (ALS) inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspection tasks required by this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 1,463 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

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

Authority for This Rulemaking

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

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

This 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–2019–0321; Product Identifier 2019–NM–013–AD.

(a) Comments Due Date

We must receive comments by June 24, 2019.

(b) Affected ADs

This AD affects AD 2018–25–02, Amendment 39–19513 (83 FR 62690, December 6, 2018) (''AD 2018–25–02'').

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before June 13, 2018.

(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, –233, –251N, and –271N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. We are issuing this AD to address fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Airbus A318/A319/A320/A321 Airworthiness Limitation Section Part 2—Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 07, dated June 13, 2018. The initial compliance time for doing the tasks is at the time specified in Airbus A318/A319/A320/A321 Airworthiness Limitation Section Part 2—Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 07, dated June 13, 2018, or within 90 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

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

(i) Terminating Action for AD 2018–25–02

Accomplishing the actions required by this AD terminates all requirements of AD 2018–25–02.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2018–25–02 are approved as AMOCs for the corresponding provisions of this AD, provided there is no change in description, threshold and interval of the applicable tasks.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) 2018–0288, dated December 21, 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–2019–0321.

(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 May 1, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–09443 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0277; Airspace Docket No. 19–ACE–4]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Sioux Center, IA

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 Sioux Center Municipal Airport, Sioux Center, IA. The FAA is proposing this action due to the closure of the airport and cancellation of the instrument procedures; and the airspace is longer required.

DATES: Comments must be received on or before June 24, 2019.

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–2019–0277; Airspace Docket No. 19–ACE–4, 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 Sioux Center Municipal Airport, Sioux Center, IA, 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–2019–0277/Airspace Docket No. 19–ACE–4.'' 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 Sioux Center Municipal Airport, Sioux Center, IA.

The FAA is proposing this action due to the closure of the Sioux Center

Municipal Airport and 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.

* * * * *

ACE IA E5 Sioux Center, IA [Removed]

Issued in Fort Worth, Texas, on May 2, 2019.

John Witucki,

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

[FR Doc. 2019–09464 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG–2018–1076]

RIN 1625–AA08; AA00

Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to add, delete, and modify the special local regulations for annual recurring marine events and safety zones for firework displays and swim events in Coast Guard Sector Northern New England Captain of the Port Zone. When enforced, these special local regulations and safety zones will restrict vessels from transiting regulated areas during certain annually recurring events. The proposed special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain marine events. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before June 10, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2018–1076 using the Federal eRulemaking Portal at *https://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 Chief Marine Science Technician Thomas Watts, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207–347–5003, email *Thomas.F.Watts@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
LNTM Local Notice To Mariners
NOE Notice of Enforcement
NPRM Notice of proposed rulemaking
NAD v83 North American Datum of 1983
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Northern New England Captain of the Port (COTP) Zone. The Coast Guard has established special local regulations and safety zones for some of these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from potential hazards. In the past, the Coast Guard has not received public comments or concerns regarding the impact to waterway traffic from regulations associated with these annually recurring events. Events were either added or deleted to the table of annual events based on their likelihood to recur in subsequent years. In addition, minor changes to existing events, such as position, date, or title, were made to ensure the accuracy of event details.

The purpose of this rulemaking is to ensure accurate notification of relevant events and protect the maritime public during marine events in the Sector Northern New England COTP zone. The Coast Guard proposes this rulemaking under its authority in 33 U.S.C. 1231 and 33 U.S.C. 1233.

III. Discussion of Proposed Rule

The proposed rule would update the tables of annual recurring events in the existing regulations for the Coast Guard Sector Northern New England COTP Zone. The tables provide the event

name, sponsor, and type, as well as approximate times, dates, and locations of the events.

The Coast Guard proposes to amend 33 CFR 100.120 ''Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone'' by updating the details of three events, deleting two events, and adding on to the TABLE § 100.120. This rule proposes the following updates to the TABLE to § 100.120: (1) 5.1 Tall Ships Visiting Portsmouth will become a one day event rather than a four day event; (2) 6.3 Windjammer Days Parade of Ships will become 6.3 Gathering of the Fleet; and (3) updates position for 8.6 Multiple Sclerosis Regatta. The events deleted from the TABLE to § 100.120 will be: (1) 7.7 Yarmouth Clam Festival Paddle Race and (2) 7.8 Maine Windjammer Lighthouse Parade. The event added to the table is the 7.8 Harpswell Lobster Boat Races.

The Coast Guard proposes to amend 33 CFR 165.171 ''Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone'' by updating the details of seven events from the TABLE to § 165.171. This rule proposes the following updates: (1) 7.3 Camden 3rd of July Fireworks will become 7.3 Camden 4th of July Fireworks; (2) 9.1 Windjammer Festival Fireworks will become 9.1 Camden Windjammer Festival Fireworks; (3) updates position of 7.8 Ellis Short Sand Park Trustee Fireworks; (4) updates position of 7.9 Hampton Beach 4th of July Fireworks; (5) updates position of 7.13 Portland Harbor 4th of July Fireworks; (6) updates date of 8.9 Lake Champlain Swimming Race and the safety area around swimmers; and (7) changes name and location of event 8.8 from Challenge Maine Triathlon to Ironman 70.3 Maine.

The regulatory text we are proposing appears at the end of this document. Advanced public notification of specific times, dates, regulated areas, and enforcement periods for each event will be provided through appropriate means, which may include, but are not limited to, the Local Notice to Mariners, Broadcast Notice to Mariners, or a Notice of Enforcement published in the **Federal Register**. If an event does not have a date and time listed in this regulation, then the precise dates and times of the enforcement period for that event will be announced through a Local Notice to Mariners and a Notice of Enforcement in the **Federal Register**.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of each regulated area. We are not adding any new special local regulations, rather we are just updating existing regulations and removing obsolete events which have not been held for the past three years or which the sponsor's indicate they have no intention to continue. Dates and coordinates have been updated to more accurately reflect the event. We are primarily updating and removing safety zones, but we are adding one safety zone for a swim event. However, this new swim event is only one day long in August and will only impact a small designated area of the waterway for a few hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security 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 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 special local regulations for various one day marine events and safety zones for fireworks displays and one day swimming events. Normally such actions are categorically excluded from further review under paragraph L61 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 *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://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 *https://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

33 CFR Part 100

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

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 parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.120, revise the table to read as follows:

§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

* * * * *

TABLE TO § 100.120

5.0	May occur May through September
5.1 Tall Ships Visiting Portsmouth	• Event Type: Regatta and Boat Parade. • Date: A multiday event in May.* • Time (Approximate): 9:00 a.m. to 8:00 p.m. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83): 43°03′11″ N, 070°42′26″W 43°03′18″ N, 070°41′51″ W 43°04′42″ N, 070°42′11″ W 43°04′28″ N, 070°44′12″ W 43°05′36″ N, 070°45′56″ W 43°05′29″ N, 070°46′09″ W 43°04′19″ N, 070°44′16″ W 43°04′22″ N, 070°42′33″ W
6.0	JUNE
6.1 Charlie Begin Memorial Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in June.* • Time (Approximate): 10:00 a.m. to 3:00 p.m.

TABLE TO § 100.120—Continued

	• Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83): 43°50′04″ N, 069°38′37″ W 43°50′54″ N, 069°38′06″ W 43°50′49″ N, 069°37′50″ W 43°50′00″ N, 069°38′20″ W
6.2 Rockland Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in June.* • Time (Approximate): 9:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): 44°05′59″ N, 069°04′53″ W 44°06′43″ N, 069°05′25″ W 44°06′50″ N, 069°05′05″ W 44°06′05″ N, 069°04′34″ W
6.3 Gathering of the Fleet	• Event Type: Tall Ship Parade. • Date: A one day event in June.* • Time (Approximate): 12:00 p.m. to 5:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83): 43°51′02″ N 069°37′33″ W 43°50′47″ N, 069°37′31″ W 43°50′23″ N, 069°37′57″ W 43°50′01″ N, 069°37′45″ W 43°50′01″ N, 069°38′31″ W 43°50′25″ N, 069°38′25″ W 43°50′49″ N, 069°37′45″ W
6.4 Bass Harbor Blessing of the Fleet Lobster Boat Race	• Event Type: Power Boat Race. • Date: A one day event in June.* • Time (Approximate): 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83): 44°13′28″ N, 068°21′59″ W 44°13′20″ N, 068°21′40″ W 44°14′05″ N, 068°20′55″ W 44°14′12″ N, 068°21′14″ W
7.0	JULY
7.1 Burlington 3rd of July Air Show	• Event Type: Air Show • Date: A one day event held near July 4th.* • Time (Approximate): 8:30 pm to 9:00 p.m. • Location: The regulated area includes all waters of Lake Champlain, Burlington, VT within the following points (NAD 83): 44°28′51″ N, 073°14′21″ W 44°28′57″ N, 073°13′41″ W 44°28′05″ N, 073°13′26″ W 44°27′59″ N, 073°14′03″ W
7.2 Moosabec Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event held near July 4th.* • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83): 44°31′21″ N, 067°36′44″ W 44°31′36″ N, 067°36′47″ W 44°31′44″ N, 067°35′36″ W 44°31′29″ N, 067°35′33″ W
7.3 The Great Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in July.* • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Saint Albans Bay within the following points (NAD 83): 44°47′18″ N, 073°10′27″ W 44°47′10″ N, 073°08′51″ W

TABLE TO § 100.120—Continued

7.4 Stonington Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in July.* • Time (Approximate): 8:00 a.m. to 3:30 p.m. • Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83): 44°09′06″ N, 068°39′08″ W 44°08′60″ N, 068°40′05″ W 44°09′06″ N, 068°40′05″ W 44°09′12″ N, 068°39′08″ W
7.5 Mayor's Cup Regatta	• Event Type: Sailboat Parade • Date: A one day event in July.* • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters of Cumberland Bay on Lake Champlain in the vicinity of Plattsburgh, New York within the following points (NAD 83): 44°41′26″ N, 073°23′46″ W 44°40′19″ N, 073°24′40″ W 44°42′01″ N, 073°25′22″ W
7.6 The Challenge Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in July.* • Time (Approximate): 11:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): 44°12′25″ N, 073°22′32″ W 44°12′00″ N, 073°21′42″ W 44°12′19″ N, 073°21′25″ W 44°13′16″ N, 073°21′36″ W
7.7 Friendship Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event during a weekend between the 15th of July and the 15th of August.* • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Friendship Harbor, Maine within the following points (NAD 83): 43°57′51″ N, 069°20′46″ W 43°58′14″ N, 069°19′53″ W 43°58′19″ N, 069°20′01″ W 43°58′00″ N, 069°20′46″ W
7.8 Harpswell Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event during in July.* • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Potts Harbor, Maine within the following points (NAD 83): 43°44′14″ N, 070°02′14″ W 43°44′31″ N, 070°01′47″ W 43°44′27″ N, 070°01′40″ W 43°44′10″ N, 070°02′08″ W
8.0	AUGUST
8.1 Eggemoggin Reach Regatta	• Event Type: Wooden Boat Parade. • Date: A one day event on a Saturday between the 15th of July and the 15th of August.* • Time (Approximate): 11:00 a.m. to 7:00 p.m. • Location: The regulated area includes all waters of Eggemoggin Reach and Jericho Bay in the vicinity of Naskeag Harbor, Maine within the following points (NAD 83): 44°15′16″ N, 068°36′26″ W 44°12′41″ N, 068°29′26″ W 44°07′38″ N, 068°31′30″ W 44°12′54″ N, 068°33′46″ W
8.2 Southport Rowgatta Rowing and Paddling Boat Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in August.* • Time (Approximate): 8:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Sheepscot Bay and Boothbay, on the shore side of Southport Island, Maine within the following points (NAD 83): 43°50′26″ N, 069°39′10″ W 43°49′10″ N, 069°38′35″ W 43°46′53″ N, 069°39′06″ W

TABLE TO § 100.120—Continued

	43°46′50″ N, 069°39′32″ W 43°49′07″ N, 069°41′43″ W 43°50′19″ N, 069°41′14″ W 43°51′11″ N, 069°40′06″ W
8.3 Winter Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 9:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83): 44°22′06″ N, 068°05′13″ W 44°23′06″ N, 068°05′08″ W 44°23′04″ N, 068°04′37″ W 44°22′05″ N, 068°04′44″ W
8.4 Lake Champlain Dragon Boat Festival	• Event Type: Rowing and Paddling Boat Race. • Date: A two day event in August.* • Time (Approximate): 7:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44°28′49″ N, 073°13′22″ W 44°28′41″ N, 073°13′36″ W 44°28′28″ N, 073°13′31″ W 44°28′38″ N, 073°13′18" W
8.5 Merritt Brackett Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83): 43°52′16″ N, 069°32′10″ W 43°52′41″ N, 069°31′43″ W 43°52′35″ N, 069°31′29″ W 43°52′09″ N, 069°31′56″ W
8.6 Multiple Sclerosis Regatta	• Event Type: Regatta and Sailboat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83): 43°40′25″ N, 070°14′21″ W 43°40′36″ N, 070°13′56″ W 43°39′58″ N, 070°13′21″ W 43°39′46″ N, 070°13′51″ W
8.7 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races	• Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Maine State Pier within the following points (NAD 83): 43°40′25″ N, 070°14′21″ W 43°40′36″ N, 070°13′56″ W 43°39′58″ N, 070°13′21″ W 43°39′47″ N, 070°13′51″ W
8.8 Long Island Lobster Boat Race	• Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Casco Bay, Maine in the vicinity of Great Ledge Cove and Dorseys Cove off the north west coast of Long Island, Maine within the following points (NAD 83): 43°41′59″ N, 070°08′59″ W 43°42′04″ N, 070°09′10″ W 43°41′41″ N, 070°09′38″ W 43°41′36″ N, 070°09′30″ W

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for Part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 4. In § 165.171, revise the table to read as follows:

§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone.

* * * * *

TABLE TO § 165.171

6.0	JUNE
6.1 Waterfront Days Fireworks	• Event Type: Fireworks Display. • Date: Two night event in June.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position: 44°13′52″ N, 069°46′08″ W (NAD 83).
6.2 LaKermesse Fireworks	• Event Type: Fireworks Display • Date: One night event in June.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: Biddeford, Maine in approximate position: 43°29′37′ N, 070°26′47″ W (NAD 83).
6.3 Windjammer Days Fireworks	• Event Type: Fireworks Display. • Date: One night event in June.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
7.0	JULY
7.1 Vinalhaven 4th of July Fireworks	• Event Type: Firework Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Grime's Park, Vinalhaven, Maine in approximate position: 44°02′34″ N, 068°50′26″ W (NAD 83).
7.2 Burlington Independence Day Fireworks	• Event Type: Firework Display. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 11:00 p.m. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position: 44°28′31″ N, 073°13′31″ W (NAD 83).
7.3 Camden 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Camden Harbor, Maine in approximate position: 44°12′32″ N, 069°02′58″ W (NAD 83).
7.4 Bangor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Bangor Waterfront, Bangor, Maine in approximate position: 44°47′27″ N, 068°46′31″ W (NAD 83).
7.5 Bar Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position: 44°23′31″ N 068°12′15″ W (NAD 83).
7.6 Boothbay Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
7.7 Eastport 4th of July Fireworks	• Event Type: Fireworks Display.

TABLE TO § 165.171—Continued

	• Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 9:30 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44°54′25″ N, 066°58′55″ W (NAD 83).
7.8 Ellis Short Sand Park Trustee Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 11:00 p.m. • Location: In the vicinity of York Beach, Maine in approximate position: 43°10′27″ N, 070°36′26″ W (NAD 83).
7.9 Hampton Beach 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 11:00 p.m. • Location: In the vicinity of Hampton Beach, New Hampshire in approximate position: 42°54′40″ N, 070°48′31″ W (NAD 83).
7.10 Moosabec 4th of July Committee Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position: 44°31′18″ N, 067°36′43″ W (NAD 83).
7.11 Lubec 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position: 44°51′52″ N, 066°59′06″ W (NAD 83).
7.12 Main Street Heritage Days 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Reed and Reed Boat Yard, Woolwich, Maine in approximate position: 43°54′6″ N, 069°48′16″ W (NAD 83).
7.13 Portland Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: In the vicinity of East End Beach, Portland, Maine in approximate position: 43°40′15″ N, 070°14′42″ W (NAD 83).
7.14 St. Albans Day Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 10:00 p.m. • Location: From the St. Albans Bay dock in St. Albans Bay, Vermont in approximate position: 44°48′25″ N, 073°08′23″ W (NAD 83).
7.15 Stonington 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position: 44°08′57″ N, 068°39′54″ W (NAD 83).
7.16 Southwest Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Southwest Harbor, Maine in approximate position: 44°16′25″ N, 068°19′21″ W (NAD 83).
7.17 Shelburne Triathlons	• Event Type: Swim Event. • Date: Up to three Saturdays throughout July and August.* • Time (Approximate): 7:00 a.m. to 11:00 am. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Shelburne Beach in Shelburne, Vermont within a 400 yard radius of the following point:

TABLE TO § 165.171—Continued

	44°21′45″ N, 075°15′58″ W (NAD 83).
7.18 St. George Days Fireworks	• Event Type: Fireworks. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: The regulated area includes all waters of Inner Tenants Harbor, ME, in approximate position: 43°57′41″ N, 069°12′45″ W (NAD 83).
7.19 Tri for a Cure Swim Clinics and Triathlon	• Event Type: Swim Event. • Date: A multi-day event held throughout July.* • Time (Approximate): 8:30 a.m. to 11:30 am. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83): 43°39′01″ N, 070°13′32″ W 43°39′07″ N, 070°13′29″ W 43°39′06″ N, 070°13′41″ W 43°39′01″ N, 070°13′36″ W
7.20 Richmond Days Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: From a barge in the vicinity of the inner harbor, Tenants Harbor, Maine in approximate position: 44°08′42″ N, 068°27′06″ W (NAD83).
7.21 Colchester Triathlon	• Event Type: Swim Event. • Date: A one day event in July.* • Time (Approximate): 7:00 a.m. to 11:00 am. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83): 44°32′57″ N, 073°12′38″ W 44°32′46″ N, 073°13′00″ W 44°33′24″ N, 073°11′43″ W 44°33′14″ N, 073°11′35″ W
7.22 Peaks to Portland Swim	• Event Type: Swim Event. • Date: A one day event in July.* • Time (Approximate): 5:00 a.m. to 1:00 p.m. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83): 43°39′20″ N, 070°11′58″ W 43°39′45″ N, 070°13′19″ W 43°40′11″ N, 070°14′13″ W 43°40′08″ N, 070°14′29″ W 43°40′00″ N, 070°14′23″ W 43°39′34″ N, 070°13′31″ W 43°39′13″ N, 070°11′59″ W
7.23 Friendship Days Fireworks.	• Event Type: Fireworks Display. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine in approximate position: 43°58′23″ N, 069°20′12″ W (NAD83).
7.24 Bucksport Festival and Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Verona Island Boat Ramp, Verona, Maine, in approximate position: 44°34′9″ N, 068°47′28″ W (NAD83).
7.25 Nubble Light Swim Challenge	• Event Type: Swim Event. • Date: A one day event in July.* • Time (Approximate): 9:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters around Cape Neddick, Maine and within the following coordinates: 43°10′28″ N, 070°36′26″ W 43°10′34″ N, 070°36′06″ W 43°10′30″ N, 070°35′45″ W 43°10′17″ N, 070°35′24″ W

TABLE TO § 165.171—Continued

	43°09′54″ N, 070°35′18″ W 43°09′42″ N, 070°35′37″ W 43°09′51″ N, 070°37′05″ W
7.26 Paul Coulombe Anniversary Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July.* • Time: 8:00 p.m. to 11:30 p.m. • Location: In the vicinity of Pratt Island, Southport, ME, in approximate position: 43°48′44″ N, 069°1′11″ W (NAD83).
7.27 Castine 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 10:30 p.m. • Location: In the vicinity of the town dock in the Castine Harbor, Castine, Maine in approximate position: 44°23′10″ N, 068°47′28″ W (NAD 83).
8.0	August
8.1 Westerlund's Landing Party Fireworks	• Event Type: Fireworks Display. • Date: A one day event in August.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Westerlund's Landing in South Gardiner, Maine in approximate position: 44°10′29″ N, 069°45′16″ W (NAD 83).
8.2 York Beach Fire Department Fireworks	• Event Type: Fireworks Display. • Date: A one day event in August.* • Time (Approximate): 8:30 p.m. to 11:30 p.m. • Location: In the vicinity of Short Sand Cove in York, Maine in approximate position: 43°10′27″ N, 070°36′25″ W (NAD 83).
8.3 North Hero Air Show	• Event Type: Air Show. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 5:00 p.m. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position: 44°48′24″ N, 073°17′02″ W 44°48′22″ N, 073°16′46″ W 44°47′53″ N, 073°16′54″ W 44°47′54″ N, 073°17′09″ W
8.4 Islesboro Crossing Swim	• Event Type: Swim Event. • Date: A one day event in August.* • Time: (Approximate): 6:00 a.m. to 11:00 am. • Location: West Penobscot Bay from Ducktrap Beach, Lincolnville, ME to Grindel Point, Islesboro, ME, in approximate position: 44°17′44″ N, 069°00′11″ W 44°16′58″ N, 068°56′35″ W
8.5 Paul Columbe Party Fireworks	• Event Type: Fireworks Display. • Date: A one day event in August.* • Time (Approximate): 9:00 p.m. to 10:30 p.m. • Location: From a barge in the vicinity of Pratt Island, Southport, Maine in approximate position: 43°48′69″ N, 069°41′18″ W (NAD 83).
8.6 Casco Bay Island Swim/Run	• Event Type: Swim/Run Event. • Date: A one day event in August.* • Time (Approximate): 7:30 a.m. to 1:00 p.m. • Location: All waters of Casco Bay, Maine in the vicinity of Casco Bay Island archipelago and within the following coordinates (NAD 83): 43°42′47″ N, 070°07′07″ W 43°38′09″ N, 070°11′57″ W 43°34′57″ N, 070°12′55″ W 43°41′31″ N, 070°11′37″ W 43°43′25″ N, 070°08′25″ W
8.7 Port Mile Swim	• Event Type: Swim Event. • Date: A one day event August.* • Time (Approximate): 7:00 a.m. to 9:00 am. • Location: All waters of Casco Bay, Maine in the vicinity of East End Beach within the following points (NAD 83):

TABLE TO § 165.171—Continued

	43°40′09″ N, 070°14′27″ W 43°40′05″ N, 070°14′01″ W 43°40′21″ N, 070°14′09″ W
8.8 Ironman 70.3 Maine	• Event Type: Swim Event. • Date: A one day event August.* • Time (Approximate): 6:00 a.m. to 08:30 am. • Location: All waters of Saco Bay, Maine in the vicinity of Old Orchard Beach within the following points (NAD 83): 43°30′54″ N, 070°22′24″ W 43°31′14″ N, 070°22′08″ W 43°30′39″ N, 070°21′46″ W 43°31′00″ N, 070°21′30″ W
8.9 Lake Champlain Swimming Race	• Event Type: Swim Event. Date: A one day event in August. • Time (Approximate): 9:00 a.m. to 3 p.m. • Location: Essex Beggs Point Park, Essex, NY, to Charlotte Beach, Charlotte, VT. 44°18′32″ N, 073°20′52″ W 44°20′03″ N, 073°16′53″ W
9.0	SEPTEMBER
9.1 Camden Windjammer Festival Fireworks	• Event Type: Fireworks Display. • Date: A one night event in September.* • Time (Approximate): 8:00 p.m. to 9:30 p.m. • Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine in approximate position: 44°12′18″ N, 069°03′11″ W (NAD 83).
9.2 Eastport Pirate Festival Fireworks	• Event Type: Fireworks Display. • Date: A one night event in September.* • Time (Approximate): 7:00 p.m. to 10:00 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44°54′17″ N, 066°58′58″ W (NAD 83).
9.3 The Lobsterman Triathlon	• Event Type: Swim Event. • Date: A one day event in September.* • Time (Approximate): 8:00 a.m. to 11:00 am. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83): 43°47′59″ N, 070°06′56″ W 43°47′44″ N, 070°06′56″ W 43°47′44″ N, 070°07′27″ W 43°47′57″ N, 070°07′27″ W
9.4 Eliot Festival Day Fireworks	• Event Type: Fireworks Display. • Date: A one night event in September.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position: 43°08′56″ N, 070°49′52″ W (NAD 83).

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: May 2, 2019.

B.J. LeFebvre,

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

[FR Doc. 2019–09497 Filed 5–8–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–1057]

RIN 1625–AA00

Extension of Comment Period for the Safety Zone; Gastineau Channel, Juneau, AK

Correction

Proposed rule document 2019–07192 appearing on pages 14663–14664 in the issue of April 11, 2019 was inadvertently published in the Notice section.

(1) The document should have appeared in the Proposed Rule section.

(2) On page 14663, in the third column, the heading is corrected to read as set forth above.

[FR Doc. C1–2019–07192 Filed 5–8–19; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0083; FRL–9992–72–Region 7]

Air Plan Approval; Nebraska; Infrastructure SIP Requirements for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of the Clean Air Act (CAA) section 110 for the 2015 Ozone (O_3) National Ambient Air Quality Standards (NAAQS). Section 110 requires that each state adopt and submit a SIP to support the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0083 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7391; email address *crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA. A technical support document (TSD) is included in this proposed rulemaking docket.

Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0083, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve the infrastructure SIP submission received from the State of Nebraska on September 24, 2018. Specifically, EPA is proposing to approve the following infrastructure elements of section 110(a)(2): (A) through (C), (D)(i)(I)—prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M).

A Technical Support Document (TSD), is included as part of the docket to discuss the details of this proposed action, including an analysis of how the SIP meets the applicable 110(a)(1) and (2) requirements for infrastructure SIPs. As explained in the TSD, EPA plans to take separate action on the infrastructure elements under section 110(a)(2)(D)(i)(II)—prong 4. The EPA is not taking action on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D.

III. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided a public comment period for this SIP revision from August 7, 2018 to September 7, 2018, and at the same time, offered an opportunity for a public hearing. The state received no comments and no requests for a public hearing. The public hearing scheduled for September 11, 2018 was canceled. In addition, as explained in more detail in the TSD, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is EPA taking?

The EPA is proposing to approve elements of the September 24, 2018, infrastructure SIP submission from the State of Nebraska, which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2015 O_3 NAAQS. Specifically, the EPA is proposing to approve the following infrastructure elements of 110(a)(2): (A) through (C), (D)(i)(I)—prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M). As explained in the TSD, the EPA intends to act on section 110(a)(2)(D)(i)(II)—prong 4, in a

subsequent rulemaking. The EPA is not taking action on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions under part D.

Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Nebraska's SIP, the EPA believes that Nebraska's SIP will meet all applicable required elements of sections 110(a)(1) and (2) (except as otherwise noted) with respect to the 2015 O_3 NAAQS. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VI. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 25, 2019.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart CC—Nebraska

■ 2. In § 52.1420 paragraph (e), the table is amended by adding entry (35) in numerical order to read as follows:

§ 52.1420 Identification of Plan.

* * * * *

(e) * * *

EPA-Approved Nebraska Nonregulatory Provisions

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	* * *
(35) Sections 110(a)(1) and (2) Infrastructure Requirements for the 2015 O_3 NAAQS.	Statewide	9/24/2018	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	This action approves for the O_3 NAAQS: The following CAA elements: 110(a)(1) and (2): (A) Through (C),(D)(i)(I)—prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M). EPA–R07–OAR–2019–0083; FRL–9992–72–Region 7.

[FR Doc. 2019–09492 Filed 5–8–19; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2019–0041; FRL–9992–36]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

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

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov*; or Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov*. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

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

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

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

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

A. Notice of Filing—Amended Tolerances for Non-Inerts

1. *PP 8E8718.* (EPA–HQ–OPP–2018–0832). The Field Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500

College Road East, Suite 201W, Princeton, New Jersey 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 8E8718, to remove existing tolerances in 40 CFR 180.601 for residues of the fungicide, cyazofamid, 4-chloro-2-cyano-*N,N*-dimethyl-5-(4-methylphenyl)-1*H*-imidazole-1-sulfonamide (CA) and its metabolite CCIM, 4-chloro-5-(4-methylphenyl)-1*H*-imidazole-2-carbonitrile (CA), calculated as the stoichiometric equivalent of cyazofamid in or on brassica, head and stem, subgroup 5A at 1.2 ppm, brassica, leafy greens, subgroup 5B at 12.0 ppm, leafy greens subgroup 4A at 10 ppm, and turnip, greens at 12.0 ppm. *Contact:* RD.

2. *PP 8E8732.* (EPA–HQ–OPP–2019–0101). IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 8E8732, to remove existing tolerances in 40 CFR 180.700 for residues of the insecticide afidopyropen, [(3*S,*4*R,*4a*R,*6*S,*6a*S,*12*R,*12a*S,*12b*S*)-3-[(cyclopropylcarbonyl)oxy]-1,3,4,4a,5,6,6a,12,12a,12b-decahydro-6,12-dihydroxy-4,6a,12b-trimethyl-11-oxo-9-(3-pyridinyl)-2*H,*11*H*-naphtho[2,1-b]pyrano[3,4-e]pyran-4-yl]methyl cyclopropanecarboxylate in or on vegetable, fruiting, group 8–10 at 0.20 parts per million (ppm). *Contact:* RD.

3. *PP 8F8721.* EPA–HQ–OPP–2019–0135. Gowan Company, P.O. Box 5569, Yuma, AZ 85366, requests to amend the tolerance in 40 CFR 180.416 for residues of the herbicide ethalfluralin in or on potato at 0.01 ppm. The capillary gas chromatography with mass selective detection (GC/MSD) is used to measure and evaluate the chemical ethalfluralin. *Contact:* RD.

B. New Tolerances for Non-Inerts

1. *PP 8E8718.* (EPA–HQ–OPP–2018–0832). The Field IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180.601 for residues of the fungicide, cyazofamid, 4-chloro-2-cyano-*N,N*-dimethyl-5-(4-methylphenyl)-1*H*-imidazole-1-sulfonamide (CA) and its metabolite CCIM, 4-chloro-5-(4-methylphenyl)-1*H*-imidazole-2-carbonitrile (CA), calculated as the stoichiometric equivalent of cyazofamid in or on brassica, leafy greens, subgroup 4–16B at 15.0 ppm; ginseng at 0.2 ppm; kohlrabi at 1.5 ppm; leafy greens subgroup 4–16A at 10.0 ppm; and vegetable, brassica, head and stem, group 5–16 at 1.5 ppm. The analytical method, Liquid Chromatography with tandem Mass Spectrometry (LC/MS/MS) is used to measure and evaluate cyazofamid. *Contact:* RD.

2. *PP 8E8727.* (EPA–HQ–OPP–2019–0061). The IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180.605 for residues of the herbicide penoxsulam, including its metabolites and degradates. Compliance with the tolerance level specified is to be determined by measuring only penoxsulam 2-(2,2-difluoroethoxy)-*N*-(5,8-dimethoxy[1,2,4]triazolo[1,5-c] pyrimidin-2-yl)-6-(trifluoromethyl) benzenesulfonamide, in or on Artichoke, globe at 0.01 ppm. Analytical method, LC/MS/MS, is used to measure and evaluate penoxsulam residues. The lowest level of method validation (LLMV) for artichoke, globe is 0.01 ppm for penoxsulam. *Contact:* RD

3. *PP 8E8728.* (EPA–HQ–OPP–2019–0076). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, difenoconazole, in or on tea at 30 ppm. The Gas chromatography equipped with a nitrogen-phosphorous detector or liquid chromatography (LC)/mass spectrometry (MS)/(MS) is used to measure and evaluate the chemical difenoconazole. *Contact:* RD.

4. *PP 8E8732.* (EPA–HQ–OPP–2019–0101). The IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180.700 for residues of the insecticide afidopyropen, [(3*S,*4*R,*4a*R,*6*S,*6a*S,*12*R,*12a*S,*12b*S*)-3-[(cyclopropylcarbonyl)oxy]-1,3,4,4a,5,6,6a,12,12a,12b-decahydro-6,12-dihydroxy-4,6a,12b-trimethyl-11-oxo-9-(3-pyridinyl)-2*H,*11*H*-naphtho[2,1-b]pyrano[3,4-e]pyran-4-yl]methyl cyclopropanecarboxylate in or on strawberry at 0.15 ppm and vegetable, fruiting, group 8–10 at 0.30 ppm. The BASF Method Number D1103/01 ''Technical Procedure: Determination of Residues of BAS 440I (Reg. No. 5599022) and its Metabolite M440I007 (Reg. No. 5824749) in Plant Matrices using LC/MS/MS to measure and evaluate afidopyropen. *Contact:* RD.

5. *PP 8F8685.* EPA–HQ–OPP–2018–0551. FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide fluindapyr in or on almond, hulls at 15 ppm; aspirated grain fractions at 60 ppm; cattle, fat at 0.15 ppm; cattle, meat byproducts at 0.6 ppm; field corn, grain at 0.01 ppm; field corn, oil at 0.03 ppm; fruit, small vine-climbing except fuzzy kiwifruit, crop subgroup 13–07f at 3 ppm; grain, cereal, crop group 15, except rice and corn at 0.9 ppm; grain, cereal, forage, crop group 16, except rice, forage at 15 ppm; grain, cereal, hay, crop group 16, except rice, hay at 8 ppm; grain, cereal, stover, crop group 16, except rice, stover, and sweet corn, stover at 4 ppm grain, cereal, straw, crop group 16, except rice, straw at 20 ppm; poultry, meat byproducts at 0.03 ppm; soybean, forage at 15 ppm; soybean, hay at 30 ppm; soybean, hulls at 0.6 ppm; soybean, seed at 0.2 ppm; sweet corn, K+CWHR at 0.01 ppm; sweet corn, stover at 20 ppm; swine, meat byproducts at 0.02 ppm; and tree nuts, crop group 14–12 at 0.04 ppm. The liquid chromatography with mass spectrometry (LC–MS/MS) is used to measure and evaluate the chemical fluindapyr. Contact: RD.

6. *PP 8F8740.* (EPA–HQ–OPP–2019–0092). Taminco US LLC, a subsidiary of Eastman Chemical Company, Two Windsor Plaza, Suite 400, 7540 Windsor Drive, Allentown, PA 18195, requests to establish a tolerance in 40 CFR part 180 for residues of the plant growth regulatory, chlormequat chloride, in or on barley grain at 5.0 ppm; oat grain at 30 ppm, wheat and triticale grain at 3 ppm, meat of cattle, goats, hogs and sheep at 0.2 ppm, meat byproducts of cattle, goats, hogs and sheep at 0.5 ppm, poultry meat at 0.04 ppm, poultry byproducts at 0.1 ppm, eggs at 0.1 ppm and milk at 0.5 ppm. Validated LC–MS/MS methods are available for enforcement purposes for determination of residues of chlormequat chloride in plants and animal products. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: April 23, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–09491 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 84, No. 90
Thursday, May 9, 2019

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0025]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Pepper Fruit From Colombia Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh pepper fruit from Colombia into the continental United States. Based on the analysis, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh pepper fruit from Colombia. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 8, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0025.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0025, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0025* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading Room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Van Gorden, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2326.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Colombia to allow fresh pepper (*Capsicum* spp., specifically the domesticated species *Capsicum annuum* L., *C. baccatum* L., *C. chinense* Jacq., *C. frutescens* L., and *C. pubescens* Ruiz & Pav.) fruit with stems into the continental United States. As part of our evaluation of Colombia's request, we have prepared a pest risk assessment (PRA) to identify pests of quarantine significance that could follow the pathway of importation of fresh pepper fruit into the continental United States from Colombia. Based on the PRA, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh pepper fruit to mitigate the pest risk.

We have concluded that fresh pepper fruit can be safely imported from Colombia into the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). The NPPO of Colombia would have to enter into an operational workplan with APHIS that spells out the daily procedures the NPPO will take to implement the measures identified in the RMD. These measures are summarized below and would also be listed in APHIS' Fruits and Vegetables Import Requirements database, available at *https://epermits.aphis.usda.gov/manual:*

- The peppers must be grown in approved places of production registered with the NPPO of Colombia.
- Pepper places of production must consist of pest-exclusionary structures.
- The places of production must contain traps for the detection of Mediterranean fruit fly (*Ceratitis capitata* (Wiedemann)) and South American fruit fly (*Anastrepha fraterculus* (Wiedemann)) both within and around the structures.
- The places of production must be inspected prior to harvest for *Neoleucinodes elegantalis* (Guenée), a fruit boring moth; *Copitarsia decolora* (Guenée), a moth; and *Puccinia pampeana* Speg., a pathogenic fungus that causes pepper and green pepper rust.
- If any of these pests, or other quarantine pests, are found to be generally infesting or infecting the places of production, the NPPO of Colombia must immediately prohibit that production site from exporting peppers to the continental United States and notify APHIS of the action. The prohibition will remain in effect until the Colombian NPPO and APHIS agree that the risk has been mitigated.
- The Colombian NPPO must maintain records of trap placement, checking of traps, and any quarantine pest captures. The Colombian NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS review.
- The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse.
- The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the

continental United States. These safeguards must remain intact until arrival in the continental United States or the consignment will be denied entry into the continental United States.

- During the time the packinghouse is in use for exporting peppers to the continental United States, the packinghouse may only accept peppers from registered approved places of production.
- Each consignment of peppers must be accompanied by a phytosanitary certificate of inspection issued by the Colombian NPPO stating that the fruit in the consignment has been produced in accordance with 7 CFR 319.56–4. Consignments must be packed in cartons that are labeled with the identity of the place of production.
- Consignments of fresh pepper fruit from Colombia are subject to inspection at the port of entry in the continental United States.
- Consignments are not for importation or distribution into or within Hawaii, Puerto Rico, or any U.S. Territory.

In addition to these specific measures, fresh pepper fruit from Colombia would be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our PRA and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh pepper fruit from Colombia, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the PRA and RMD by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh pepper fruit from Colombia in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh pepper fruit from Colombia into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 3rd day of May 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–09512 Filed 5–8–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0068]

Importation of Dianthus spp. From Kenya

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are notifying the public that we propose to make changes to the import requirements in the U.S. Department of Agriculture (USDA) Plants for Planting Manual for imports of *Dianthus* spp. (carnation) cuttings from Kenya. Currently, *Dianthus* spp. cuttings from Kenya require mandatory postentry quarantine within the United States. We are proposing to allow *Dianthus* spp. cuttings from Kenya to be imported into the United States without postentry quarantine, subject to certain conditions. These changes to the USDA Plants for Planting Manual would relieve restrictions on *Dianthus* spp. cuttings from Kenya while continuing to address the possible introduction of quarantine pests through the importation of such cuttings. We are making these changes available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 8, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0068.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0068, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0068* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Lydia E. Colón, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2302.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart H—Plants for Planting'' (7 CFR 319.37–1 through 319.37–23, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) prohibits or restricts the importation of plants for planting (including living plants, plant parts, seeds, and plant cuttings) to prevent the introduction of quarantine pests into the United States. *Quarantine pest* is defined in § 319.37–2 as a plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled. In accordance with § 319.37–20, APHIS may impose quarantines and other restrictions on the importation of specific types of plants for planting. These restrictions are listed in the USDA Plants for Planting Manual.[1]

In a final rule[2] published in the **Federal Register** on March 19, 2018 (83 FR 11845–11867, Docket No. APHIS–2008–0011), and effective on April 18, 2018, we amended the regulations so that restrictions on the importation of certain types of plants for planting would be included in the USDA Plants for Planting Manual instead of the regulations, meaning that changes to specific restrictions on plants for planting are no longer made through rulemaking. Under § 319.37–20, if APHIS determines it is necessary to add, change, or remove restrictions on the importation of a specific type of plant for planting, we will publish in the **Federal Register** a notice that announces the proposed change and invites public comment.

The USDA Plants for Planting Manual currently requires *Dianthus* spp. (carnation) cuttings to be held in postentry quarantine for 1 year following their importation into the United States, unless they originate

[1] *https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/plants_for_planting.pdf.*

[2] The proposed and final rules, supporting documents, and comments can be viewed at *https://www.regulations.gov/docket?D=APHIS-2008-0011.*

from Canada, Great Britain, or the Netherlands. Canadian *Dianthus* spp. cuttings are generally exempt from postentry quarantine, while *Dianthus* spp. cuttings from Great Britain or the Netherlands are exempt from postentry quarantine provided that they are grown under certain conditions.

The national plant protection organization (NPPO) of Kenya requested that we revise the USDA Plants for Planting Manual to also allow the importation of *Dianthus* spp. cuttings from Kenya without postentry quarantine. In response to this request, we prepared a commodity import evaluation document (CIED) that evaluates the request in light of the plant pest risk associated with the importation of *Dianthus* spp. cuttings from Kenya.

Based on the CIED, we are proposing to allow *Dianthus* spp. cuttings from Kenya to be imported into the United States without postentry quarantine, provided that:

- The cuttings are grown in a greenhouse that is registered with the NPPO of Kenya and that operates under an agreement with the NPPO.
- The NPPO maintains a list of registered growers and provides them to APHIS at least annually.
- The production site incorporates safeguards to prevent the entry of arthropod pests including, but not necessarily limited to, insect proof screening over openings and self-closing double or airlock-type doors.
- Blacklight traps are maintained for at least 1 year following construction of the production site, registration of the site, replacement of the covering of the production site, or discovery and repair to any rips or tears in the covering of the production site.
- Any rips or tears are repaired immediately.
- In the event of detection of quarantine pests in a production site, the site will not be allowed to export until appropriate control measures approved by the NPPO are taken and their effectiveness verified by APHIS.
- Plants destined for export to the United States are produced in a production site devoted solely to production of such plants.
- Parental stock from which the plants intended for importation derive are inspected and found free of the fungus *Phialophora cinerescens,* and indexed and found free of *Carnation etched ring virus* and *Carnation necrotic fleck virus.*
- At least once monthly for the 4 months prior to the cuttings' export to the United States, the production site is visually inspected for *Spodoptera littoralis* (cotton leaf worm), *Helicoverpa armigera* (Old World bollworm), *Agrotis segetum* (turnip moth), *Epichoristodes acerbella* (carnation tortrix), *Aspidiotus nerii* (a scale), and *Chrysodeixis chalcites* (a moth), as well as *Phialophora cinerescens, Carnation etched ring virus,* and *Carnation necrotic fleck virus.*
- The production site maintains records regarding production, indexing, inspection, and pest management, and inspectors from the NPPO and APHIS have access to both the production site and these records.
- Cuttings are accompanied by a phytosanitary certificate with an additional declaration that the plants were produced in a production site registered with the NPPO of Kenya, and that the plants were grown under conditions specified by APHIS to prevent infestation with *Phialophora cinerescens, Carnation etched ring virus, Carnation necrotic fleck virus, Agrotis segetum, Epichoristodes acerbella, Helicoverpa armigera, Spodoptera littoralis,* and *Aspidiotus nerii.*
- Cuttings are limited to commercial consignments only.

Therefore, in accordance with § 319.37–20(c), we are announcing the availability of our CIED for public review and comment. That document may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After we review public comments on our proposed changes to the USDA Plants for Planting Manual, we will publish a second notice. The second notice will inform the public of any changes to the import requirements we consider to be necessary to mitigate the entry of quarantine pests into the United States through the importation of *Dianthus* spp. cuttings from Kenya.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 3rd day of May 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–09511 Filed 5–8–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0094]

Notice of Decision To Revise Conditions Governing the Importation of Fresh Peppers From the Republic of Korea Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to revise the conditions regarding the importation into the continental United States of peppers from the Republic of Korea. We have decided that the mesh size of screenings over vent openings can be increased from 0.6 mm to 1.6 mm, provided that sticky traps are used as an additional measure for pest monitoring. This action modifies the conditions under which peppers from the Republic of Korea may be imported into the continental United States while continuing to protect against the introduction of quarantine pests.

DATES: The conditions governing the importation of peppers from the Republic of Korea into the continental United States are revised as of May 9, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Kreger, Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2356, email: *Carol.M.Kreger@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 of the regulations provides the requirements for authorizing the new importation of fruits and vegetables into the United States, as well as for revising existing requirements for the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed on the internet in APHIS' Fruits and Vegetables

Import Requirements database, or FAVIR (*https://epermits.aphis.usda.gov/manual*). It also provides that, if the Administrator determines that any of the phytosanitary measures listed in FAVIR as required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk analysis and determination available for public comment.

The importation of fresh peppers from the Republic of Korea into the continental United States has been authorized since June 2006. One of the conditions for the importation of the peppers is that they must be grown in a pest-exclusionary greenhouse approved by and registered with the national plant protection organization (NPPO) of the Republic of Korea. In order for the greenhouse to be considered pest-exclusionary, among other requirements, we required any openings other than the doors to be covered with 0.6 mm or less screening to prevent the entry of pests into the structure.

On April 20, 2018, we published in the **Federal Register** (83 FR 17501–17503, Docket No. APHIS–2016–0094) a proposal [1] to amend the regulations regarding the importation of fresh peppers from the Republic of Korea into the continental United States. We proposed to allow the screenings to be 1.6 mm in diameter or less, provided that the structure had present yellow and blue sticky traps, at a density agreed upon by APHIS and the NPPO of the Republic of Korea, to monitor for levels of thrips activity.

We solicited comments on the proposed rule for 60 days ending on June 19, 2018. We received one comment by that date, from the NPPO of the Republic of Korea.

The NPPO asked whether both yellow and blue sticky traps had to be used within the pest-exclusionary greenhouses, or whether our intent was to allow yellow or blue sticky traps to be used. The NPPO pointed out that both colors of traps are effective for thrips.

Our intent was to require either type of trap to be used; we do not require both to be used.

The NPPO also informed us that they had changed their acronym from NPQS to APQA. The proposed rule had referred to the old acronym.

[1] To view the proposed rule, supporting documents, and the comment we received, go to *https://www.regulations.gov/docket?D=APHIS-2016-0094.*

Finally, we note that the proposed rule was issued prior to the October 15, 2018, effective date of a final rule [2] that revised the regulations in § 319.56–4 by broadening an existing performance standard to provide that all revisions to existing requirements for the importation of fruits and vegetables into the United States will use a notice-based process. With those changes to the regulations, it is necessary for us to finalize this action through the issuance of a notice rather than a final rule.

Therefore, in accordance with the regulations in § 319.56–4(c)(4)(ii), we are announcing our decision to revise the conditions governing the importation of fresh peppers from Korea into the continental United States as discussed in this notice. The revised requirements will be listed in FAVIR.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and as noted in the proposed rule, the burden requirements included in this notice are approved by the Office of Management and Budget (OMB) under OMB control number 0579–0282.

E-Government Act Compliance

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

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 3rd day of May 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–09514 Filed 5–8–19; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

[2] To view the final rule, go to *https://www.regulations.gov/docket?D=APHIS-2010-0082.*

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Tennessee Advisory Committee will hold a public meeting on Friday, May 24, 2019; 1:30 p.m. to discuss Legal Financial Obligation (LFO) report.

DATES: The meeting will be held on Friday, May 24, 2019; 1:30 p.m. EST.

Dial-In Information: Teleconference 866–566–2308, Conference ID: 2359181.

For Additional Information Contact: Alejandro Ventura, DFO, at (213) 894–3437 or *aventura@usccr.gov.*

SUPPLEMENTARY INFORMATION: Members of the public are invited to come in and listen to the discussion. Written comments will be accepted until May 22, 2019 and may be mailed to the Regional Program Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or may be emailed to Alejandro Ventura at *aventura@usccr.gov.* Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda

- Opening Remarks
- *New Business:* Discussion of Legal Financial Obligation (LFO) report.
- Public Comments/Participation

Adjournment

Dated: May 6, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–09542 Filed 5–8–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on ≤May 22, 2019, 9:30 a.m., in the Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution & Pennsylvania Avenues NW, Washington, DC. The

Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.

2. Status reports by working group chairs.

3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than May 15, 2019.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 19, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2(10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482·2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2019–09543 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on May 22 and 23, 2019, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, May 22

Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Old Business
4. Wassenaar Proposals for 2020
5. New business

Thursday, May 23

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than May 15, 2019.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on May 3, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2019–09540 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration Department of Commerce.

DATES: Applicable May 9, 2019.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: On February 20, 2019, the Department of Commerce (Commerce), pursuant to section 702(h) of the Trade Agreements Act of 1979 (as amended) (the Act), published the quarterly update to the annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty covering the period July 1, 2018, through September 30, 2018.[1] In the *Third Quarter 2018 Update,* we requested that any party that has information on foreign government subsidy programs that benefit articles of cheese subject to an in-quote rate of duty submit such information to Commerce.[2] We received no comments, information or requests for consultation from any party.

Pursuant to section 702(h) of the Act, we hereby provide Commerce's update of subsidies on articles of cheese that were imported during the period October 1, 2018, through December 31, 2018. The appendix to this notice lists the country, the subsidy program or

[1] *See Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty,* 84 FR 5056 (February 20, 2019) (*Third Quarter 2018 Update*).

[2] *Id.*

programs, and the gross and net amounts of each subsidy for which information is currently available.

Commerce will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed. Commerce encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: May 1, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix [3] [4] [5]

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [3] ≤Subsidy ($/lb)	Net [4] Subsidy ($/lb)
28 European Union Member States [5]	European Union Restitution Payments	0.00	0.00
Canada	Export Assistance on Certain Types of Cheese	0.46	0.46
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
Total		0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[FR Doc. 2019–09551 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH032

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the following: Personnel Committee (Closed Session); Standard Operations, Procedures and Policy (SOPPs) Committee; Executive Finance Committee; Scientific and Statistical Committee (SSC) Selection Committee (Closed Session); Advisory Panel (AP) Selection Committee (Closed Session); Law Enforcement Committee (Partially Closed Session); Spiny Lobster Committee; Snapper Grouper Committee; Dolphin Wahoo Committee; Southeast Data, Assessment, and Review (SEDAR) Committee (Partially Closed Session); Mackerel Cobia Committee; and a Committee of the Whole. The Council meeting week will include an informal public discussion session, a formal public comment period, training sessions for For-Hire Electronic Reporting, a Saltonstall-Kennedy presentation and feedback sessions, and a meeting of the full Council.

DATES: The Council meeting will be held from 8 a.m. on Monday, June 10, 2019 until 1 p.m. on Friday, June 14, 2019.

ADDRESSES:

Meeting address: The meeting will be held at the Marriott Hutchinson Island, 555 NE Ocean Blvd., Stuart, FL 34996; phone: 772/225–3700; fax 772/225–0003.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 302–8440 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.* Meeting information is available from the Council's website at: *http://safmc.net/safmc-meetings/council-meetings/.*

SUPPLEMENTARY INFORMATION:

Public comment: Written comments may be directed to Gregg Waugh, Executive Director, South Atlantic Fishery Management Council (see *Council address*) or electronically via the Council's website at *http://safmc.net/safmc-meetings/council-meetings/.* Comments received by close of business the Monday before the meeting (6/3/19) will be compiled, posted to the website as part of the meeting materials, and included in the administrative record; please use the Council's online form available from the website. For written comments received after the Monday before the meeting (after 6/3/19), individuals submitting a comment must use the Council's online form available from the website. Comments will automatically be posted to the website and available for Council consideration. Comments received prior to noon on Thursday, June 13, 2019 will be a part of the meeting administrative record.

The items of discussion in the individual meeting agendas are as follows:

Personnel Committee—Monday, June 10, 2019, 8 a.m. Until 9 a.m. (Closed Session)

1. The Committee will discuss personnel issues and provide recommendations for Council consideration.

SOPPs Committee—Monday, June 10, 2019, 9 a.m. Until 9:30 a.m.

1. The Committee will review proposed changes to the Council Handbook, discuss and provide recommendations as appropriate.

2. The Committee will receive an overview on the Council's SOPPs and timing for review, discuss and provide guidance as needed.

[3] Defined in 19 U.S.C. 1677(5).

[4] Defined in 19 U.S.C. 1677(6).

[5] The 28 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

Executive Finance Committee—Monday, June 10, 2019, 9:30 a.m. Until 12 p.m.; Wednesday, June 12, 2019, 3:45 p.m.–4 p.m.; and Thursday, June 13, 2019, 3:30 p.m.–4 p.m.

1. The Committee will receive a report from the May 2019 meeting of the Council Coordination Committee (CCC), an update on the Magnuson-Stevens Reauthorization and the Modern Fisheries Act, and an overview of the CCC Working Paper, discuss and provide guidance to staff.

2. The Committee will review the draft Calendar Year (CY) 2019 Operational Budget, discuss and approve for Council consideration

3. The Committee will review a prioritization schedule for work on amendments, discuss and provide guidance to staff.

SSC Selection Committee, Monday, June 10, 2019, 1:30 p.m. Until 2:30 p.m. (Closed Session)

The Committee will review applications for open seats on the SSC and provide recommendations for Council consideration.

Advisory Panel Selection Committee, Monday, June 10, 2019, 2:30 p.m. Until 3:30 p.m. (Closed Session)

The Committee will review applications for open seats on advisory panels and workgroups, discuss structure of advisory panels as necessary, and provide recommendations for Council consideration.

Law Enforcement Committee, Monday, June 10, 2019, 3:30 p.m. Until 4:30 p.m. (Partially Closed Session)

1. The Committee will review nominees for Law Enforcement Officer of the Year and provide recommendations for Council consideration. (Closed Session)

2. The Committee will receive a report from the Law Enforcement Advisory Panel, discuss and provide guidance to staff.

Spiny Lobster Committee, Monday, June 10, 2019, 4:30 p.m. Until 5:30 p.m.

1. The Committee will receive a report on the status of commercial and recreational catches versus annual catch limits (ACLs).

2. The Committee will receive an overview of Spiny Lobster Amendment 13 addressing updated procedures for coordinated management with Florida and bully net regulations, discuss and provide guidance to staff.

3. The Committee will receive an overview on commercial trip limits for spiny lobster in federal waters off the coasts of NC, SC, and GA, discuss and provide guidance to staff.

4. The Committee will receive an overview of the Gulf Council Carry Over Amendment addressing species in the joint Coastal Migratory Pelagic Fishery Management Plan (FMP) and the Spiny Lobster FMP, discuss and consider approval for formal Secretarial review.

Snapper Grouper Committee, Tuesday, June 11, 2019, 8:30 a.m. Until 4:50 p.m. and Wednesday, June 12, 2019, From 8:30 a.m. Until 12 p.m.

1. The Committee will receive updates from NOAA Fisheries on commercial and recreational catches versus quotas for species under annual catch limits (ACLs) and the status of amendments under formal Secretarial review.

2. The Committee will receive an update from Dr. Marcel Reichert on the Southeast Reef Fish Survey (SERFS) and reports from the Snapper Grouper Advisory Panel and the SSC.

3. The Committee will receive an update on Snapper Grouper Amendment 38 addressing blueline tilefish, an update on development of the Council's System Management Plan for managed areas, and will review an options paper for removing species in the Jacks Complex from the Snapper Grouper FMP.

4. The Committee will review an options paper for draft Regulatory Amendment 33 addressing season modifications for red snapper, consider public input, and consider approving for public hearing.

5. The Committee will review Regulatory Framework Amendment 29 to the Snapper Grouper FMP addressing best fishing practices and the use of powerhead gear, consider public input, select preferred alternatives and approve all actions.

6. The Committee will receive an update on Regulatory Amendment 30 addressing the rebuilding plan for red grouper and consider approval for formal Secretarial review.

7. The Committee will receive an overview of the Wreckfish Individual Transferable Quota (ITQ) Review, review the final draft document, and provide guidance to staff.

8. The Committee will receive a presentation on the Economic Performance of the Snapper Grouper fishery.

Saltonstall-Kennedy (S–K) Presentation, Tuesday, June 11, 2019, 4:50 p.m. Until 5 p.m.

1. The Council will receive an overview of the S–K process and the opportunity for the public to comment.

S–K Panel Discussion, Tuesday, June 11, 2019, 5 p.m. and Wednesday, June 12, 2019, 5 p.m.

JRD & Associates, Inc. were contracted by NOAA Fisheries to conduct an assessment of the Saltonstall-Kennedy (S–K) Grant Program. As part of their analysis, they are conducting feedback sessions and interviews across the country at the fishery management council meetings to collect information from the fishing industry to determine their interest in the S–K project results and the best methods to disseminate and share the S–K project results.

Informal Question & Answer Session, Tuesday, June 11, 2019, 5 p.m.

NOAA Fisheries and the Council will hold an informal Q&A Session for the public.

Training Session for For-Hire Electronic Reporting, Tuesday, June 11, 2019, 5 p.m. and Wednesday, June 12, 2019, 4 p.m.

NOAA Fisheries and the Council will hold training sessions targeting federally permitted for-hire captains on use of approved methods for electronic reporting. *Note:* The training sessions are dependent upon the Final Rule being published for the South Atlantic For-hire Electronic Reporting Amendment prior to the Council meeting.

Dolphin Wahoo Committee, Wednesday, June 12, 2019, 1:30 p.m. Until 3:45 p.m.

1. The Committee will receive updates from NOAA Fisheries on the status of commercial and recreational catches versus annual catch limits.

2. The Committee will review the goals and objectives of the Dolphin Wahoo FMP and Amendment 10 to the Dolphin Wahoo FMP. Draft Amendment 10 currently includes actions to: Allow bag-limit sales of dolphin by dually-permitted for-hire and commercial permit holders; revise annual catch limits and sector allocations for dolphin and wahoo to accommodate new data from the Marine Recreational Information Program; modify recreational vessel limits for dolphin; modify gear, bait, and training requirements in the commercial longline fishery for dolphin and wahoo to align with Highly Migratory Species requirements; and other measures. The Committee will review actions in the draft amendment and consider approving for public scoping.

3. The Committee will review public scoping comments on adding bullet mackerel and frigate mackerel as

Ecosystem Component species and provide guidance to staff.

Formal Public Comment, Wednesday, June 12, 2019, 4 p.m.

Public comment will be accepted on items on the Council meeting agenda scheduled to be approved for Secretarial Review: Snapper Grouper Regulatory Amendment 30 (red grouper) and the Gulf Council's Carry Over Amendment (CMP & Spiny Lobster), and consideration of requesting emergency action to increase the Atlantic Group king mackerel commercial trip limit. Public comment will also be accepted on all agenda items. The Council Chair, based on the number of individuals wishing to comment, will determine the amount of time provided to each commenter.

SEDAR Committee, Thursday, June 13, 2019, 8:30 a.m. Until 9:30 a.m. (Partially Closed Session)

1. The Committee will discuss appointments to upcoming SEDAR assessments and provide recommendations for Council consideration. (Closed Session)

2. The Committee will receive an Assessment Activities update, a report from the SSC, and an overview of the Research and Monitoring Plan, discuss and take action as necessary.

Committee of the Whole, Thursday, June 13, 2019, 9:30 a.m. Until 2:30 p.m.

1. The Committee of the Whole will receive a presentation on the management history of sector allocations by the Council, discuss and take action as needed.

2. The Committee of the Whole will review the draft Allocation Review Trigger Policy, provide guidance to staff, and take action as needed.

Mackerel Cobia Committee, Thursday, June 13, 2019, 2:30 p.m. Until 3:30 p.m.

1. The Committee will receive an update on the status of commercial and recreational catches versus ACLs and the status of amendments under formal Secretarial review.

2. The Committee will receive a report from the Mackerel Cobia Advisory Panel, consider recommendations and take action as appropriate.

3. The Committee will discuss possible emergency action to increase the Atlantic king mackerel commercial trip limit and develop recommendations for Council consideration.

4. The Committee will receive an overview of Framework Amendment 8 to the Coastal Migratory Pelagic FMP addressing king mackerel commercial trip limits in Season 2 in the Atlantic Southern Zone and consider approving for public scoping.

5. The Committee will receive an update on previous considerations to address Spanish mackerel closures in the Atlantic Northern Zone, discuss management options, and take action as needed.

Council Session: Thursday, June 13, 2019, 4 p.m. Until 5:30 p.m. and Friday, June 14, 2019, 8:30 a.m. Until 1 p.m. (Partially Closed Session if Needed)

The Full Council will begin with the Call to Order, adoption of the agenda, and approval of minutes.

The Council will receive a Legal Briefing on Litigation from NOAA General Counsel (if needed) during Closed Session. The Council will receive staff reports including the Executive Director's Report, updates on the MyFishCount pilot project, the Council's Citizen Science Program, and an update from the April 2019 meeting of the Atlantic Large Whale Take Reduction Team.

Updates will be provided by NOAA Fisheries including a report on the status of commercial and recreational catches versus ACLs for species not covered during an earlier committee meeting, data-related reports, protected resources updates, update on the status of the of the Commercial Electronic Logbook Program, and the status of the Marine Recreational Information Program (MRIP) conversions for recreational fishing estimates. The Council will discuss and take action as necessary.

The Council will review any Exempted Fishing Permits received as necessary.

The Council will receive committee reports from the Snapper Grouper, Mackerel Cobia, Spiny Lobster, SSC Selection, SEDAR, AP Selection, Dolphin Wahoo, Committee of the Whole, SOPPs, Personnel, and Executive Finance Committees, and take action as appropriate.

The Council will also receive a presentation from NOAA Fisheries Highly Migratory Species (HMS) Division on actions currently being considered for sharks and bluefin tuna, and a presentation on management within the Biscayne National Park and take action as appropriate.

The Council will receive agency and liaison reports; and discuss other business and upcoming meetings and take action as necessary.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 6, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–09595 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH021

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 65 data webinar I for HMS Atlantic blacktip shark.

SUMMARY: The SEDAR 65 assessment process of HMS Atlantic blacktip shark will consist of a Data Workshop, a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 65 data webinar I will be held May 28, 2019, from 2 p.m. to 4 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the assessment scoping webinar are as follows:

Panelists will review the data sets being considered for the assessment and discuss initial modeling efforts.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 6, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–09593 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH024

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet June 3, 2019 through June 10, 2019.

DATES: The meetings will be held June 3, 2019 through June 10, 2019. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The Council meeting will be held at the Harrigan Centennial Hall, 330 Harbor Dr., Sitka, AK 99835. The Community Engagement Committee and the Ecosystem Committee will be held at Westmark Hotel, 330 Seward St., Sitka, AK 99835. The Enforcement Committee will be held at the Aspen Suites Hotel, 210 Lake St., Sitka, AK 99835.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Council will begin its plenary session at 8 a.m. in the King Room on Wednesday, June 5, 2019 continuing through Monday, June 10, 2019. The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Raven Room on Monday, June 3, 2019 and continue through Wednesday, June 5, 2019. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Silver/Chum Room on Tuesday, June 4, 2019 and continue through Friday, June 7, 2019. The Community Engagement Committee will meet on Tuesday, June 4, 2019 from 8 a.m. to 12 p.m. in the Council Room at the Westmark Hotel, 330 Seward St., Sitka, AK 99835. The Ecosystem Committee will meet on Tuesday, June 4, 2019 from 1 p.m. to 5 p.m. in the Council Room at the Westmark Hotel, 330 Seward St., Sitka, AK 99835. The Enforcement Committee will meet on Tuesday, June 4, 2019 from 1 p.m. to 5 p.m. in the Raven's Room at the Aspen Suites Hotel, 210 Lake St., Sitka, AK 99835.

Agenda

Monday, June 3, 2019 Through Monday, June 10, 2019

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) Executive Director's Report (including CCC update, Legislative update, October meeting logistics)
(2) NMFS Management Report
(3) NOAA GC Report
(4) NOAA Enforcement Report
(5) ADF&G Report
(6) USCG Report
(7) USFWS Report
(8) BSAI Crab: (a) SAFE report for AIGKC, PIBKC; (b) Crab Plan Team Report; and (c) St Matthew Blue King Crab rebuilding plan progress report
(9) GOA pollock/cod seasons, allocations—Final Action
(10) Observer 2018 Annual Report
(11) Crab Partial Deliveries
(12) Sculpins to ecosystem component
(13) CQE Fish-up in 3A—Final Action
(14) Salmon bycatch: (a) 2018 reports (IPA reports, GOA Chinook NMFS report, SeaShare); (b) Salmon genetics 2017 review for BS and GOA; and (c) Council salmon bycatch workshop report
(15) BSAI cod allocation review
(16) AI trawl set aside
(17) St. George Unangan proposal as National Sanctuary Designation
(18) IFQ access opportunities
(19) Bering Sea Fishery Ecosystem Plan Team Report
(20) Social Science Planning Team Report
(21) Community Engagement Committee Report
(22) Staff Tasking

The Advisory Panel will address Council agenda items (8–16) and (18–22).

The SSC agenda will include the following issues:

(1) BSAI Crab: (a) SAFE report for AIGKC, PIBKC; (b) Crab Plan Team Report; (c) St Matthew Blue King Crab rebuilding plan progress report; and (d) review of assessment models for October
(2) Observer 2018 Annual Report
(3) Crab Partial Deliveries
(4) Sculpins to ecosystem component
(5) Salmon bycatch: (a) 2018 reports (IPA reports, GOA Chinook NMFS report, SeaShare); (b) Salmon genetics 2017 review for BS and GOA; and (c) Council salmon bycatch workshop report
(6) BSAI cod allocation review
(7) Bering Sea Fishery Ecosystem Plan Team Report
(8) Social Science Planning Team Report
(9) Tracking research priorities funding report

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Community Engagement Committee will meet to begin reviewing current Council engagement strategies to identify gaps or deficiencies and recommend improvements. Other topics related to Council engagement may be discussed. The Ecosystem Committee will meet to receive updates on the development of the Bering Sea Ecosystem Plan, including the FEP Team report and developments on the action modules, and to continue discussion of the three-year outlook for committee tasking, and other business. The Enforcement Committee will discuss crab partial deliveries and hear a presentation on the enforcement chapter from the 2018 Observer Annual Report, and other business.

The Agendas are subject to change, and the latest versions will be posted at *http://www.npfmc.org/.*

Public Comment

Public comment letters will be accepted and should be submitted either electronically at: *meetings.npfmc.org* or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252. Deadline for comments is May 31, 2019, at 12 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: May 6, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–09594 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG874

Taking of Marine Mammals Incidental to Specific Activities; Taking of Marine Mammals Incidental to Pile Driving and Removal Activities During Construction of a Cruise Ship Berth, Hoonah, Alaska

Correction

In notice document 2019–08848 beginning on page 18495 in the issue of Wednesday, May 1, 2019, make the following corrections:

1. On page 18511, Table 5 should read as follows:

TABLE 5—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR VIBRATORY PILE DRIVING

User Spreadsheet Input—vibratory pile driving/anchoring and socketing spreadsheet tab A.1 Vibratory pile driving used									
	24-in piles (permanent)	30-in piles (temporary install)	30-in piles (temporary removal)	30-in piles (permanent)	36-in piles (permanent)	42-in piles (permanent)	8-in anchoring	33-in anchoring	24-in and 30-in socketing
Source Level (RMS SPL)	161.9	161.9	161.9	161.9	168.2	168.2	166.2	166.2	166.2
Weighting Factor Adjustment (kHz)	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Number of piles within 24-hr period	4	6	6	2	2	2	1	2	2
Duration to drive a single pile (min)	10	20	10	30	30	60	60	240	60
Propagation (xLogR)	15	15	15	15	15	15	15	15	15
Distance of source level measurement (meters) *	10	10	10	10	10	10	10	10	10

2. On page 18515, Table 9 should read as follows:

TABLE 9—PROPOSED TAKE ESTIMATES AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock (N_{EST})	Level A harassment	Level B harassment	Percent of stock
Minke Whale	N/A	0	9	N/A.
Humpback Whale	Hawaii DPS (9,487) [a]	0	406	4.3.
	Mexico DPS (606) [a]		27 (Total 433.)	4.5.
Gray Whale	Eastern North Pacific (26,960)	0	3	Less than 1 percent.
Killer Whale	Alaska Resident (2,347)	0	469	19.9 [b]
	Northern Resident (261)		52	19.9 [b]
	West Coast Transient (243)		49 (Total 570.)	20.2. [b]
Pacific White-Sided Dolphin	North Pacific (26,880)	0	164	Less than 1 percent.
Dall's Porpoise	Alaska (83,400) [c]	0	1,038	1.2.
Harbor Porpoise	NA	32	1,932	NA.
Harbor Seal	Glacier Bay/Icy Strait (7,210)	16	156	2.16.
Steller Sea Lion	Eastern U.S. (41,638)	15	520	1.25
	Western U.S. (53,303)	1 (Total 16.)	39 (Total 559.)	Less than 1 percent.

[a] Under the MMPA humpback whales are considered a single stock (Central North Pacific); however, we have divided them here to account for DPSs listed under the ESA. Using the stock assessment from Muto *et al.* 2018 for the Central North Pacific stock (10,103 whales) and calculations in Wade *et al.* 2016; 9,487 whales are expected to be from the Hawaii DPS and 606 from the Mexico DPS.

[b] Take estimates are weighted based on calculated percentages of population for each distinct stock, assuming animals present would follow same probability of presence in project area.

[c] Jefferson *et al.* 2019 presents the first abundance estimates for Dall's porpoise in the waters of Southeast Alaska with highest abundance recorded in spring (N=5,381, CV= 25.4%), lower numbers in summer (N=2,680, CV=19.6%), and lowest in fall (N=1,637, CV=23.3%). However, NMFS currently recognizes a single stock of Dall's porpoise in Alaskan waters and an estimate of 83,400 Dall's porpoises is used by NMFS for the entire stock (Muto *et al.,* 2018).

[FR Doc. C1–2019–08848 Filed 5–8–19; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH032

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the following: Personnel Committee (Closed Session); Standard Operations, Procedures and Policy (SOPPs) Committee; Executive Finance Committee; Scientific and Statistical Committee (SSC) Selection Committee (Closed Session); Advisory Panel (AP) Selection Committee (Closed Session); Law Enforcement Committee (Partially Closed Session); Spiny Lobster Committee; Snapper Grouper Committee; Dolphin Wahoo Committee; Southeast Data, Assessment, and Review (SEDAR) Committee (Partially Closed Session); Mackerel Cobia Committee; and a Committee of the Whole. The Council meeting week will include an informal public discussion session, a formal public comment period, training sessions for For-Hire Electronic Reporting, a Saltonstall-Kennedy presentation and feedback sessions, and a meeting of the full Council.

DATES: The Council meeting will be held from 8 a.m. on Monday, June 10, 2019 until 1 p.m. on Friday, June 14, 2019.

ADDRESSES:

Meeting address: The meeting will be held at the Marriott Hutchinson Island, 555 NE Ocean Blvd., Stuart, FL 34996; phone: 772/225–3700; fax 772/225–0003.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 302–8440 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.* Meeting information is available from the Council's website at: *http://safmc.net/safmc-meetings/council-meetings/.*

SUPPLEMENTARY INFORMATION: *Public comment:* Written comments may be directed to Gregg Waugh, Executive Director, South Atlantic Fishery Management Council (see *Council address*) or electronically via the Council's website at *http://safmc.net/safmc-meetings/council-meetings/.* Comments received by close of business the Monday before the meeting (6/3/19) will be compiled, posted to the website as part of the meeting materials, and included in the administrative record; please use the Council's online form available from the website. For written comments received after the Monday before the meeting (after 6/3/19), individuals submitting a comment must use the Council's online form available from the website. Comments will automatically be posted to the website and available for Council consideration. Comments received prior to noon on Thursday, June 13, 2019 will be a part of the meeting administrative record.

The items of discussion in the individual meeting agendas are as follows:

Personnel Committee—Monday, June 10, 2019, 8 a.m. Until 9 a.m. (Closed Session)

1. The Committee will discuss personnel issues and provide recommendations for Council consideration.

SOPPs Committee—Monday, June 10, 2019, 9 a.m. Until 9:30 a.m.

1. The Committee will review proposed changes to the Council Handbook, discuss and provide recommendations as appropriate.

2. The Committee will receive an overview on the Council's SOPPs and timing for review, discuss and provide guidance as needed.

Executive Finance Committee—Monday, June 10, 2019, 9:30 a.m. Until 12 p.m.; Wednesday, June 12, 2019, 3:45 p.m.–4 p.m.; and Thursday, June 13, 2019, 3:30 p.m.–4 p.m.

1. The Committee will receive a report from the May 2019 meeting of the Council Coordination Committee (CCC), an update on the Magnuson-Stevens Reauthorization and the Modern Fisheries Act, and an overview of the CCC Working Paper, discuss and provide guidance to staff.

2. The Committee will review the draft Calendar Year (CY) 2019 Operational Budget, discuss and approve for Council consideration

3. The Committee will review a prioritization schedule for work on amendments, discuss and provide guidance to staff.

SSC Selection Committee, Monday, June 10, 2019, 1:30 p.m. Until 2:30 p.m. (Closed Session)

The Committee will review applications for open seats on the SSC and provide recommendations for Council consideration.

Advisory Panel Selection Committee, Monday, June 10, 2019, 2:30 p.m. Until 3:30 p.m. (Closed Session)

The Committee will review applications for open seats on advisory panels and workgroups, discuss structure of advisory panels as necessary, and provide recommendations for Council consideration.

Law Enforcement Committee, Monday, June 10, 2019, 3:30 p.m. Until 4:30 p.m. (Partially Closed Session)

1. The Committee will review nominees for Law Enforcement Officer of the Year and provide recommendations for Council consideration. (Closed Session)

2. The Committee will receive a report from the Law Enforcement Advisory Panel, discuss and provide guidance to staff.

Spiny Lobster Committee, Monday, June 10, 2019, 4:30 p.m. Until 5:30 p.m.

1. The Committee will receive a report on the status of commercial and recreational catches versus annual catch limits (ACLs)

2. The Committee will receive an overview of Spiny Lobster Amendment 13 addressing updated procedures for coordinated management with Florida and bully net regulations, discuss and provide guidance to staff.

3. The Committee will receive an overview on commercial trip limits for spiny lobster in federal waters off the coasts of NC, SC, and GA, discuss and provide guidance to staff.

4. The Committee will receive an overview of the Gulf Council Carry Over Amendment addressing species in the joint Coastal Migratory Pelagic Fishery Management Plan (FMP) and the Spiny Lobster FMP, discuss and consider approval for formal Secretarial review.

Snapper Grouper Committee, Tuesday, June 11, 2019, 8:30 a.m. Until 4:50 p.m. and Wednesday, June 12, 2019, From 8:30 a.m. Until 12 p.m.

1. The Committee will receive updates from NOAA Fisheries on commercial and recreational catches versus quotas for species under annual catch limits (ACLs) and the status of amendments under formal Secretarial review.

2. The Committee will receive an update from Dr. Marcel Reichert on the Southeast Reef Fish Survey (SERFS) and reports from the Snapper Grouper Advisory Panel and the SSC.

3. The Committee will receive an update on Snapper Grouper Amendment 38 addressing blueline tilefish, an update on development of the Council's System Management Plan for managed areas, and will review an options paper for removing species in the Jacks Complex from the Snapper Grouper FMP.

4. The Committee will review an options paper for draft Regulatory Amendment 33 addressing season modifications for red snapper, consider public input, and consider approving for public hearing.

5. The Committee will review Regulatory Framework Amendment 29 to the Snapper Grouper FMP addressing best fishing practices and the use of powerhead gear, consider public input, select preferred alternatives and approve all actions.

6. The Committee will receive an update on Regulatory Amendment 30 addressing the rebuilding plan for red grouper and consider approval for formal Secretarial review.

7. The Committee will receive an overview of the Wreckfish Individual Transferable Quota (ITQ) Review, review the final draft document, and provide guidance to staff.

8. The Committee will receive a presentation on the Economic Performance of the Snapper Grouper fishery.

Saltonstall-Kennedy (S–K) Presentation, Tuesday, June 11, 2019, 4:50 p.m. Until 5 p.m.

1. The Council will receive an overview of the S–K process and the opportunity for the public to comment.

S–K Panel Discussion, Tuesday, June 11, 2019, 5 p.m. and Wednesday, June 12, 2019, 5 p.m.

JRD & Associates, Inc. were contracted by NOAA Fisheries to conduct an assessment of the Saltonstall-Kennedy (S–K) Grant Program. As part of their analysis, they are conducting feedback sessions and interviews across the country at the fishery management council meetings to collect information from the fishing industry to determine their interest in the S–K project results and the best methods to disseminate and share the S–K project results.

Informal Question & Answer Session, Tuesday, June 11, 2019, 5 p.m.

NOAA Fisheries and the Council will hold an informal Q&A Session for the public.

Training Session for For-Hire Electronic Reporting, Tuesday, June 11, 2019, 5 p.m. and Wednesday, June 12, 2019, 4 p.m.

NOAA Fisheries and the Council will hold training sessions targeting federally permitted for-hire captains on use of approved methods for electronic reporting. *Note:* The training sessions are dependent upon the Final Rule being published for the South Atlantic For-hire Electronic Reporting Amendment prior to the Council meeting.

Dolphin Wahoo Committee, Wednesday, June 12, 2019, 1:30 p.m. Until 3:45 p.m.

1. The Committee will receive updates from NOAA Fisheries on the status of commercial and recreational catches versus annual catch limits.

2. The Committee will review the goals and objectives of the Dolphin Wahoo FMP and Amendment 10 to the Dolphin Wahoo FMP. Draft Amendment 10 currently includes actions to: allow bag-limit sales of dolphin by dually-permitted for-hire and commercial permit holders; revise annual catch limits and sector allocations for dolphin and wahoo to accommodate new data from the Marine Recreational Information Program; modify recreational vessel limits for dolphin; modify gear, bait, and training requirements in the commercial longline fishery for dolphin and wahoo to align with Highly Migratory Species requirements; and other measures. The Committee will review actions in the draft amendment and consider approving for public scoping.

3. The Committee will review public scoping comments on adding bullet mackerel and frigate mackerel as

Ecosystem Component species and provide guidance to staff.

Formal Public Comment, Wednesday, June 12, 2019, 4 p.m.—Public comment will be accepted on items on the Council meeting agenda scheduled to be approved for Secretarial Review: Snapper Grouper Regulatory Amendment 30 (red grouper) and the Gulf Council's Carry Over Amendment (CMP & Spiny Lobster), and consideration of requesting emergency action to increase the Atlantic Group king mackerel commercial trip limit. Public comment will also be accepted on all agenda items. The Council Chair, based on the number of individuals wishing to comment, will determine the amount of time provided to each commenter.

SEDAR Committee, Thursday, June 13, 2019, 8:30 a.m. Until 9:30 a.m. (Partially Closed Session)

1. The Committee will discuss appointments to upcoming SEDAR assessments and provide recommendations for Council consideration. (Closed Session)

2. The Committee will receive an Assessment Activities update, a report from the SSC, and an overview of the Research and Monitoring Plan, discuss and take action as necessary.

Committee of the Whole, Thursday, June 13, 2019, 9:30 a.m. Until 2:30 p.m.

1. The Committee of the Whole will receive a presentation on the management history of sector allocations by the Council, discuss and take action as needed.

2. The Committee of the Whole will review the draft Allocation Review Trigger Policy, provide guidance to staff, and take action as needed.

Mackerel Cobia Committee, Thursday, June 13, 2019, 2:30 p.m. Until 3:30 p.m.

1. The Committee will receive an update on the status of commercial and recreational catches versus ACLs and the status of amendments under formal Secretarial review.

2. The Committee will receive a report from the Mackerel Cobia Advisory Panel, consider recommendations and take action as appropriate.

3. The Committee will discuss possible emergency action to increase the Atlantic king mackerel commercial trip limit and develop recommendations for Council consideration.

4. The Committee will receive an overview of Framework Amendment 8 to the Coastal Migratory Pelagic FMP addressing king mackerel commercial trip limits in Season 2 in the Atlantic Southern Zone and consider approving for public scoping.

5. The Committee will receive an update on previous considerations to address Spanish mackerel closures in the Atlantic Northern Zone, discuss management options, and take action as needed.

Council Session: Thursday, June 13, 2019, 4 p.m. Until 5:30 p.m. and Friday, June 14, 2019, 8:30 a.m. Until 1 p.m. (Partially Closed Session if Needed)

The Full Council will begin with the Call to Order, adoption of the agenda, and approval of minutes.

The Council will receive a Legal Briefing on Litigation from NOAA General Counsel (if needed) during Closed Session. The Council will receive staff reports including the Executive Director's Report, updates on the MyFishCount pilot project, the Council's Citizen Science Program, and an update from the April 2019 meeting of the Atlantic Large Whale Take Reduction Team.

Updates will be provided by NOAA Fisheries including a report on the status of commercial and recreational catches versus ACLs for species not covered during an earlier committee meeting, data-related reports, protected resources updates, update on the status of the Commercial Electronic Logbook Program, and the status of the Marine Recreational Information Program (MRIP) conversions for recreational fishing estimates. The Council will discuss and take action as necessary. The Council will review any Exempted Fishing Permits received as necessary.

The Council will receive committee reports from the Snapper Grouper, Mackerel Cobia, Spiny Lobster, SSC Selection, SEDAR, AP Selection, Dolphin Wahoo, Committee of the Whole, SOPPs, Personnel, and Executive Finance Committees, and take action as appropriate.

The Council will also receive a presentation from NOAA Fisheries Highly Migratory Species (HMS) Division on actions currently being considered for sharks and bluefin tuna, and a presentation on management within the Biscayne National Park and take action as appropriate.

The Council will receive agency and liaison reports; and discuss other business and upcoming meetings and take action as necessary.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 5 days prior to the meeting

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 6, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–09607 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH033

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Committees.

DATES: The meetings will be held Tuesday, June 4, 2019 through Thursday, June 6, 2019. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: The meeting will be held at the Yotel New York, 570 Tenth Ave (at W 42nd), New York, NY 10036, telephone: (646) 449–7700.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda,

webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Tuesday, June 4, 2019

Atlantic Surfclam and Ocean Quahog 2020 Specifications Review

Review Advisory Panel, SSC, and staff recommendations for 2020 specifications and recommend any changes if necessary.

Atlantic Surfclam and Ocean Quahog Catch Share Program Review

Review public comments received, approve program review and submit to NOAA Fisheries, and review recommendations from the Oversight Team and discuss next steps.

Atlantic Surfclam and Ocean Quahog Excessive Shares

Review and approve Excessive Shares Public Hearing Document.

Atlantic Surfclam Research for Great South Channel Habitat Management Area

Update on progress to date.

Unmanaged Species Landings Update

Review commercial landings of unmanaged species and Mid-Atlantic Council ecosystem component species.

SSC Overfishing Limit Coefficient of Variation Guidelines

Review and approve OFL CV guidance document.

NMFS Northeast Regional Strategic Plan

Wednesday, June 5, 2019

Mackerel, Squid, and Butterfish 2020 Specifications

Review Advisory Panel, SSC and/or staff recommendations for 2020 specifications, including butterfish and river herring/shad caps; review the 2019 River Herring/Shad cap and the current mackerel closures and consider any actions for in-season adjustments or other modifications.

Illex Working Group Update

Review Working Group progress.

Ricks E Savage Award

Illex Permitting and Mackerel, Squid, and Butterfish Fishery Management Plan Goals Amendment

Review scoping comments and approve scope of alternatives for further development.

Overview of NEFSC Fishery Management and Research Division

2020–24 Strategic Plan

Review stakeholder survey results, Advisory Panel feedback, and public meeting comments.

Thursday, June 6, 2019

Atlantic Large Whale Take Reduction Team Report

Business Session

Committee Reports (SSC); Executive Director's Report (upcoming HMS actions); Organization Reports; and, Liaison Reports.

Continuing and New Business

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: May 6, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–09605 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG985

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 64 data webinar II for Gulf of Mexico and South Atlantic yellowtail snapper.

SUMMARY: The SEDAR 64 assessment process of Gulf of Mexico and South Atlantic yellowtail snapper will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 64 data webinar II will be held May 29, 2019, from 10 a.m. to 12 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment

scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the data webinar are as follows:

Panelists will review the data sets being considered for the assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 6, 2019.

Tracey L. Thompson,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG888

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal

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

ACTION: Notice; incidental harassment authorization; request for comments on proposed Renewal.

SUMMARY: NMFS received a request from the San Francisco Bay Area Water Emergency Transportation Authority (WETA) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to the Downtown San Francisco Ferry Terminal Expansion Project in San Francisco, California. These activities consist of activities that are covered by the current authorization but will not be completed prior to its expiration. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed Renewal not previously provided during the initial 30-day comment period.

DATES: Comments and information must be received no later than May 24, 2019.

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

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

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act*. 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 is 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 here as ''mitigation measures''). Monitoring and reporting of such takings are also required. The meaning of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities

beyond that described in the Dates and Duration section of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to expiration of the current IHA;
- The request for Renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized;

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the initial findings remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.* Any comments received on the potential Renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA Renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested Renewal, and agency responses will be summarized in the final notice of our decision.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the IHA Renewal qualifies to be categorically excluded from further NEPA review. We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

History of Request

On May 31, 2018, NMFS issued an IHA to WETA to take marine mammals incidental to pile driving activities associated with the Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco, California, effective from June 1, 2018, through May 30, 2019 (83 FR 28826; June 21, 2018). On March 5, 2019, NMFS received an application for the Renewal of that IHA. As described in the application for Renewal, the activities authorized in the initial IHA would not be completed by the time that IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. As required, the applicant also provided a preliminary monitoring report (available at *www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

Description of the Specified Activities and Anticipated Impacts

WETA proposes to continue to expand the berthing capacity at the Downtown San Francisco Ferry Terminal, located at the San Francisco Ferry Building, to support existing and future planned water transit services operated on San Francisco Bay by WETA and WETA's emergency operations. The Downtown San Francisco Ferry Terminal Expansion Project includes the construction of three new water transit gates and overwater berthing facilities, in addition to supportive landside improvements, such as additional passenger waiting and queueing areas, circulation improvements, and other water transit-related amenities. The new gates and other improvements would be designed to accommodate future planned water transit services between Downtown San Francisco and Antioch, Berkeley, Martinez, Hercules, Redwood City, Richmond, and Treasure Island, as well as emergency operation needs. All piles would be driven during the authorized in-water work window of June 1 to November 30, 2019.

The specified activities described for this renewal are an identical subset of the activities covered by the initial 2018 IHA. NMFS previously published notices of proposed IHA (83 FR 18507; April 27, 2018) and issued IHA (83 FR 28826; June 21, 2018). These documents, as well as WETA's initial IHA application and the preliminary monitoring report for the previously issued IHA, are available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0.*

Similarly, the anticipated impacts are identical to those described in the initial IHA. Specifically, we anticipate the take of seven marine mammal stocks (including three cetacean and four pinniped stocks), by Level B harassment only, incidental to noise as a result of pile driving associated with the proposed activities. WETA was not able to complete the pile driving activities analyzed in the initial IHA by the date that IHA is set to expire and anticipates the need for additional piles driving to complete the project in 2019.

The following documents are referenced in this notice and include important supporting information, and may be found at the indicated location:

- Initial Proposed IHA: Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal (83 FR 18507; April 27, 2018). Available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0;*
- Initial Final IHA. Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal (83 FR 28826; June 21, 2018). Available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-*

area-water-emergency-transportation-authority-ferry-0; and

• Preliminary Monitoring Report from Initial IHA. Available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0.*

Detailed Description of the Activity

As described above, WETA was not able to complete the activities analyzed in the initial IHA by the date that IHA is set to expire (June 1, 2019). As such, the activities WETA proposes to conduct in 2019 would be a continuation of the activities as described in the initial 2018 IHA and would be identical to the activities analyzed in the initial IHA (same location, equipment, methods, and seasonality). The initial IHA analyzed the potential impacts to marine mammals from the construction of new water transit gates and other improvements to the ferry terminal. The new water transit gates and other improvements are designed to accommodate future planned water transit services, including an increase in peak-period WETA vessel arrivals from 14 to approximately 30, and an expansion of WETA services to accommodate more weekday passengers.

Construction of the project improvements requires pile driving. Pile driving for the project includes impact or vibratory pile driving associated with construction of the berthing structures, the Embarcadero Plaza, and East Bayside Promenade. Pile driving would occur during daylight hours only and one hammer would be used at a time. Vibratory driving of 24-in and 30-in piles may take up to 15 minutes per pile while vibratory driving of 36-in piles may take up to 20 minutes per pile. Piles driven with an impact hammer would require an estimated 1800 strikes per pile, regardless of pile size. Underwater sound resulting from pile driving could result in the harassment of marine mammals.

Much of the pile driving associated with the project was completed in 2017 and 2018 and was covered previous IHAs. All pile driving completed in 2017 and 2018 was vibratory; no impact pile driving was conducted. The numbers of each pile size that were planned to be driven during 2018 are shown in Table 1 of the 2018 IHA application (available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*). WETA planned to install 81 steel piles, ranging in diameter from 24 to 36 in in diameter, during 2018. However, as described above, WETA was not able to complete all pile driving in 2018 as planned and therefore proposes to complete pile driving associated with the proposed activities in 2019. WETA installed a total of 52 piles in 2018 over approximately 21 construction days, and anticipates a total of 29 additional piles would need to be installed in 2019 to complete the project. Thus, the total number of piles driven in 2018 and 2019 combined would not exceed the total number described and analyzed in the previously issued IHA (81 piles total). A minor change in design plans would result in the installation of five more 36-inch piles and five less 24-in piles that originally planned to complete the work. The proposed Renewal would be effective for a period of one year from the date of issuance.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the Notice of proposed IHA (83 FR 18507; April 27, 2018) for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the Notice of proposed IHA for the initial authorization (83 FR 18507; April 27, 2018). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the Notice of proposed IHA (83 FR 18507; April 27, 2018) and issued IHA for the initial authorization (83 FR 28826; June 21, 2018). The pile driving equipment that may result in take, as well as the source levels, marine mammal stocks taken, marine mammal density data and the methods of take estimation applicable to this authorization remain unchanged from the previously issued IHA.

Authorized takes would primarily be by Level B harassment as exposure to acoustic sources (*i.e.,* impact and vibratory pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for harbor seals and California sea lions due to larger predicted auditory injury zones.

As described above, WETA completed the installation of 52 piles in 2018 and proposes to install 29 piles to complete the project in 2019. Piles would include 24-in, 30-in, and 36-in piles. The number of piles for each respective size proposed for installation in 2019 are shown in Table 1.

TABLE 1—NUMBER AND SIZES OF PILES PROPOSED FOR INSTALLATION IN 2019, AND ESTIMATED DURATION OF PILE DRIVING

Pile diameter	Number to be installed	Number of piles installed per day	Estimated construction duration (days)
24-in	6	2.5	2
30-in	8	3	3
36-in	15	2	8

TABLE 1—NUMBER AND SIZES OF PILES PROPOSED FOR INSTALLATION IN 2019, AND ESTIMATED DURATION OF PILE DRIVING—Continued

Pile diameter	Number to be installed	Number of piles installed per day	Estimated construction duration (days)
Total	29	n/a	13

Distances to the isopleths corresponding to the Level B harassment threshold for each pile size and type are shown in Table 2. Distances to the isopleths corresponding to the Level A harassment thresholds for the various marine mammal functional hearing groups, by pile size and type, are shown in Table 3. Descriptions of the modeling methods used to determine the distances shown in Tables 2 and 3 are described in detail in the Notice of Issued IHA (83 FR 28826; June 21, 2018) for the initial IHA. These methods have not changed from the initial IHA, and all values shown in Table 2 and 3 have not changed from the initial IHA. No impact driving has been conducted on the project thus far and vibratory driving will be the most likely method of installation during 2019 as well; however, the use of an impact hammer to install piles may be required in 2019 and the potential for impact driving is therefore included in the take analysis.

TABLE 2—DISTANCES TO ISOPLETHS CORRESPONDING TO THE LEVEL B HARASSMENT THRESHOLD

Pile size and installation method	Distance to Level B harassment threshold (m)
24-in Vibratory	651
24-in Impact	341
30-in Vibratory	450
30-in Impact	341
36-in Vibratory	940
36-in Impact	541

TABLE 3—DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Pile size and installation method	Distance to Level A harassment threshold (m)				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
24-in Vibratory	3.1	<1	4	2	<1
24-in Impact	418	15	498	224	16
30-in Vibratory	2	<1	3	1	<1
30-in Impact	418	15	498	224	16
36-in Vibratory	5	<1	7	4	<1
36-in Impact	801	29	954	429	31

As the number of pile driving days that would occur in 2019 is less than the number of pile driving days analyzed in the previous IHA, the number of takes estimated to occur in 2019, and proposed for authorization, has changed from the number of takes authorized in the initial IHA. Take numbers authorized in the initial IHA are shown in Table 11 of the 2018 Notice of Issued IHA (83 FR 28826; June 21, 2018), available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*.

The number of takes proposed for authorization for this IHA, for each marine mammal stock, are shown in Table 4. Auditory injury (*i.e.,* Level A harassment) is unlikely to occur for cetaceans, however, take by Level A harassment of harbor seals and California sea lions are proposed for authorization given their increased presence in the nearshore waters of the project site and the relatively large Level A harassment zones, especially for 36-in piles.

TABLE 4—TOTAL TAKES PROPOSED FOR AUTHORIZATION

Species	Takes by Level A harassment	Takes by Level B harassment	Total takes proposed for authorization
Harbor seal	20	83	103
Northern fur seal	0	10	10
California sea lion	8	92	100

TABLE 4—TOTAL TAKES PROPOSED FOR AUTHORIZATION—Continued

Species	Takes by Level A harassment	Takes by Level B harassment	Total takes proposed for authorization
Northern elephant seal	0	13	13
Gray whale	0	4	4
Bottlenose dolphin	0	30	30
Harbor porpoise	0	32	32

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the Notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are proposed for this renewal:

General Construction Measures

A Spill Prevention Control and Countermeasure (SPCC) plan has been prepared to address the emergency cleanup of any hazardous material, and will be available onsite. The SPCC plan incorporates SPCC, hazardous waste, stormwater, and other emergency planning requirements. In addition, the project will comply with the Port's stormwater regulations. Fueling of land and marine-based equipment will be conducted in accordance with procedures outlined in the SPCC. Well-maintained equipment will be used to perform work, and except in the case of a failure or breakdown, equipment maintenance will be performed offsite. Equipment will be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak will be identified, leaked material will be cleaned up, and the cleaning materials will be collected and properly disposed. Fresh cement or concrete will not be allowed to enter San Francisco Bay. All construction materials, wastes, debris, sediment, rubbish, trash, fencing, etc. will be removed from the site once project construction is complete, and transported to an authorized disposal area.

Pile Driving

Pre-activity monitoring will take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring will continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone (described below) is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the zone, as described below. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 or 30 minutes (for pinnipeds/small cetaceans or large cetaceans, respectively) have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

For all pile driving activities, a minimum of one protected species observed (PSO) will be required, stationed at the active pile driving rig or at the best vantage point(s) practicable to monitor the shutdown zones for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Two PSOs will be required on days when impact pile driving occurs.

Monitoring of pile driving will be conducted by qualified PSOs (see below) who will have no other assigned tasks during monitoring periods. WETA will adhere to the following conditions when selecting observers:

- Independent PSOs will be used (*i.e.,* not construction personnel);
- PSOs must have prior experience working as a marine mammal observer during construction activities; and
- WETA will submit PSO CVs for approval by NMFS.

WETA will ensure that observers have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

To prevent Level A take of cetaceans, elephant seals, and Northern fur seals, shutdown zones equivalent to the Level A harassment zones would be established. If the Level A harassment zone is less than 10 m, a minimum 10 m shutdown zone will be enforced. WETA will implement shutdown zones as follows:

TABLE 5—PROPOSED PILE DRIVING SHUTDOWN ZONES

Pile size and installation method	Shutdown zone (m)				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Otariid pinnipeds	Phocid pinnipeds
24-in Vibratory	10	10	10	10	10.
24-in Impact	420	15	500	16	30 for harbor seals, 224 for all other species.
30-in Vibratory	10	10	10	10	10.
30-in Impact	420	15	500	16	30 for harbor seals, 224 for all other species.
36-in Vibratory	10	10	10	10	10.
36-in Impact	800	30	955	30	30 for harbor seals, 430 for all other species.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level B harassment zones, pile driving and removal activities must cease immediately using delay and shutdown procedures. Similarly, if a species for which take by Level A harassment has not been authorized, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level A harassment zones, pile driving and removal activities must cease immediately. Activities must not resume until the animal has been confirmed to have left the area or 15 or 30 minutes (pinniped/small cetacean or large cetacean, respectively) has elapsed.

Piles driven with an impact hammer will employ a ''soft start'' technique to give fish and marine mammals an opportunity to move out of the area before full-powered impact pile driving begins. This soft start will include an initial set of three strikes from the impact hammer at reduced energy, followed by a 30 second waiting period, then two subsequent three-strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of 30 minutes or longer.

Impact hammers will be cushioned using a 12-in thick wood cushion block. WETA will also employ a bubble curtain during impact pile driving. WETA will implement the following performance standards:

- The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;
- The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact; and
- WETA shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers, and shall require that construction contractors submit an inspection/performance report for approval by WETA within 72 hours following the performance test. Corrections to the attenuation device to meet the performance standards shall occur prior to impact driving.

Based on our evaluation of the applicant's proposed measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Public Comments

As noted previously, NMFS published a notice of proposed IHA (83 FR 18507; April 27, 2018) and solicited public comments on both our proposal to issue the initial IHA and on the potential for a Renewal, should certain requirements be met. All public comments were addressed in the notice announcing the issuance of the initial IHA. Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the Renewal of the 2018 IHA.

Comment: The Marine Mammal Commission (Commission) requested clarification of certain issues associated with NMFS's notice that one-year Renewals can be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of Renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of section 101(a)(5)(D) of the MMPA.

Response: The notice of the proposed initial IHA expressly notified and invited comment from the public on the possibility that under certain, limited conditions the applicant could seek a Renewal IHA for an additional year. The notice described the conditions under which such a Renewal request could be considered and expressly sought public comment in the event such a Renewal were sought. Further, since issuance of the initial IHA NMFS has modified the Renewal process to provide notice through the **Federal Register** and an additional 15-day public comment period at the time the Renewal IHA is requested. NMFS also will provide direct notice of the proposed Renewal to those who commented on the initial IHA, to provide an opportunity to submit any additional comments.

We appreciate the Commission's suggestion that NMFS discuss the potential for IHA Renewals through a more general route, such as a rulemaking. However, utilizing the public comment process associated with IHAs is more efficient for the agency, while still providing for appropriate public input into NMFS' decision-making. Further, NMFS' recent modification to the Renewal process (*i.e.,* soliciting additional public comment at the time of a Renewal request) should alleviate the Commission's concern about the lack of additional public comment and need for a more general rulemaking.

For more information, NMFS has published a description of the Renewal process on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.*

Preliminary Determinations

WETA's proposed activity is identical to the activity analyzed in our previously issued notices of proposed IHA and issued IHA (with the exception of the number of piles proposed for installation, which is less than the number analyzed in those documents).

We concluded that the initial IHA would have a negligible impact on all marine mammal stocks and species and that the taking would be small relative to population sizes. The marine mammal information, potential effects, and the mitigation and monitoring measures remain the same as those analyzed in the previously issued notices of proposed IHA and issued IHA, therefore the extensive analysis, as well as the associated findings, included in the prior documents remain applicable.

The only differences between the initial IHA and this proposed Renewal is that the number of piles proposed for installation, and the numbers of marine mammal takes expected to occur incidental to the proposed activities, are lower than the numbers analyzed and authorized in the previously issued IHA. As both the number of piles proposed for installation and the number of takes expected to occur, and proposed for authorization, are lower than in the initial IHA, we have concluded that the effects of the proposed Renewal would be the same or less than those that were analyzed in the notices of the initial proposed IHA and issued IHA.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis 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; (4) WETA'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, and; (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (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. No incidental take of ESA-listed species is proposed for authorization or expected to result from WETA's proposed activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Renewal and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue an IHA Renewal to WETA for conducting ferry terminal expansion activities at the Downtown San Francisco Ferry Terminal, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* We request comment on our analyses, the proposed Renewal, and any other aspect of this Notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: May 3, 2019.

Donna S. Wieting,

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

[FR Doc. 2019–09520 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH026

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will convene on Monday, June 3 through Thursday, June 6, 2019.

ADDRESSES: The meeting will take place at Sandestin Golf and Beach Resort, located at 9300 Emerald Coast Parkway West, Miramar Beach, FL 32550; telephone: (850) 267–8000.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, June 3, 2019; 8:30 a.m.–5 p.m.

The meeting will begin in a Closed Session of the Full Council from approximately 8:30 a.m.–9:15 a.m. to select members to the Data Collection and Coral Advisory Panels (AP). Immediately following, committee sessions will begin mid-morning at 9:30 a.m. with Data Collection Committee reviewing the proposed Data Collection AP Charge; discussing Commercial Fishing Unique Trip Identifiers; and, receiving a presentation on Southeast For-Hire Integrated Electronic Reporting (SEFHIER) Implementation Plan.

Following lunch, the Sustainable Fisheries Committee will discuss modernizing the Recreational Fisheries Management Act of 2018; discuss Allocation Issues; review Final Action: Generic Amendment—Carryover Provisions and Framework Modifications; and discuss the two-day Possession Limit on Federal For-Hire Trips. The Habitat Protection and Restoration Committee will review the permitting process for Siting of Artificial Reefs and Aquaculture Operations in Federal Waters; and, receive a presentation on Manna Fish Farms, Gulf of Mexico Finfish Aquaculture Operations.

Immediately following Habitat Protection and Restoration Committee, there will be a Stakeholder Engagement Workshop hosted by the University of Southern Mississippi on Manna Fish Farms, Gulf of Mexico Finfish Aquaculture Operations that is opened to the public.

Tuesday, June 4, 2019; 8:30 a.m.–5:30 p.m.

The Reef Fish Committee will begin with review of Reef Fish Landings; receive a presentation on the Joint Enforcement Agreement; and, review Draft Amendment 36B: Modifications to Commercial Individual Fishing Quota (IFQ) Programs—Law Enforcement Technical Committee Discussion, NOAA Office of Law Enforcement Penalties Presentation, and Quota Bank Presentation.

After lunch, the Reef Fish Committee will reconvene and discuss taking final action on Framework Action to Modify Greater Amberjack Commercial Trip Limits; Draft Framework Action to Modify the Recreational For-hire Red Snapper Annual Catch Target Buffer;

Public Hearing Draft Amendment 51: Establish Gray Snapper Status Determination Criteria, Reference Points, and Modify Annual Catch Limits; and, Commercial Crew Size Requirements.

National Marine Fisheries Services (NMFS) will hold a Question and Answer Session immediately following Reef Fish Committee.

Wednesday, June 5, 2019; 8:30 a.m.–5:30 p.m.

The meeting will begin with a presentation on proposed Highly Migratory Species (HMS) Management Actions.

The Gulf SEDAR Committee will receive a summary from the May 2019 SEDAR Steering Committee Meeting; and, review of Gulf of Mexico SEDAR Schedule.

Full Council will re-convene at approximately 10:45 a.m. the with a Call to Order, Announcements, and Introductions; followed by an Adoption of Agenda and Approval of Minutes. The Council will present the 2018 Law Enforcement Officer of the Year Award; review of Exempted Fishing Permit (EFP) Applications; public comments on EFP Applications (if any); and, receive a presentation on Florida Law Enforcement Efforts.

After lunch, the Council will hold public comment testimony beginning at 2 p.m. until 5:30 p.m., EDT for the following items: Final Action: Generic Amendment—Carryover the Annual Catch Limits (ACL) of Unharvested Quota; Final Action: Greater Amberjack Framework Action to Modify Greater Amberjack Commercial Trip Limits; and, open testimony on any other fishery issues or concerns. Anyone wishing to speak during public comment testimony should sign in at the registration station located at the entrance to the meeting room.

Thursday, June 6, 2019; 8:30 a.m.–3 p.m.

The Council will receive reports from the following management committees: Habitat Protection and Restoration, Highly Migratory Species, Data Collection, Sustainable Fisheries, and Gulf SEDAR. The Council will announce the Data Collection and Coral AP appointments; and, receive the Reef Fish Management Committee report. After lunch, the Council will vote on Exempted Fishing Permit (EFP) applications, if any; and receive updates from the following supporting agencies: South Atlantic Fishery Management Council; NOAA Office of Law Enforcement (OLE), Gulf States Marine Fisheries Commission; U.S. Coast Guard; U.S. Fish and Wildlife Service; and, the Department of State.

Lastly, the Council will discuss any Other Business items.

—Meeting Adjourns

The meeting will be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Council meeting on the calendar.

The timing and order in which agenda items are addressed may change as required to effectively address the issue, and the latest version along with other meeting materials will be posted on the website as they become available.

Although other non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

Dated: May 6, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–09591 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2019–0007]

Patent Term Adjustment Procedures in View of the Federal Circuit Decision in Supernus Pharm., Inc. v. Iancu

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is modifying its patent term adjustment procedures in view of the decision by the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) in *Supernus Pharm., Inc.* v. *Iancu* (*Supernus*). The USPTO makes the patent term adjustment determinations indicated in patents by a computer program that uses information recorded in its Patent Application Locating and Monitoring (PALM) system. The event from which the Federal Circuit measured the beginning of the patent term adjustment reduction period in *Supernus*—a notice to the applicant from a foreign patent authority—is not an event that is recorded in the USPTO's PALM system. Thus, the USPTO will continue to make the patent term adjustment determinations indicated in patents under the existing regulations using information recorded in its PALM system. A patentee who believes that the period of patent term adjustment reduction exceeds the period of time during which the patentee failed to engage in reasonable efforts to conclude prosecution of the application may raise the issue in a timely request for reconsideration of the patent term adjustment, providing any relevant information that is not recorded in the USPTO's PALM system. The USPTO's decision on any timely filed patentee request for reconsideration will apply the Federal Circuit's decision in *Supernus* in view of the information presented by the patentee.

DATES: The procedure set forth in this notice is effective on May 9, 2019.

FOR FURTHER INFORMATION CONTACT: Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, at 571–272–7757.

SUPPLEMENTARY INFORMATION: Under 35 U.S.C. 154(b)(1), an applicant is entitled (subject to certain conditions and limitations) to patent term adjustment for the following reasons: (1) If the USPTO fails to take certain actions during the examination and issue process within specified time frames (35 U.S.C. 154(b)(1)(A)) (''A'' delays); (2) if the USPTO fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)) (''B'' delays); and (3) for delays due to a proceeding under 35 U.S.C. 135(a) (*e.g.,* derivation, interference, secrecy order, or successful appellate review (35 U.S.C. 154(b)(1)(C)) (''C'' delays). 35 U.S.C. 154(b)(2) places limitations on the period of patent term adjustment granted under 35 U.S.C. 154(b)(1), one of which is that the period of patent term adjustment under 35 U.S.C. 154(b)(1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in

reasonable efforts to conclude prosecution (or processing or examination) of the application (35 U.S.C. 154(b)(2)(C)(i)). 35 U.S.C. 154(b)(2) directs the USPTO to ''prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.'' (35 U.S.C. 154(b)(2)(C)(iii)). The USPTO has prescribed such regulations in 37 CFR 1.704. Further, 35 U.S.C. 154(b)(3)(A) directs the USPTO to ''prescribe regulations establishing procedures for the application for and determination of patent term adjustments.'' The USPTO has prescribed such regulations in 37 CFR 1.705.

On January 23, 2019, the Federal Circuit issued a decision in *Supernus* pertaining to the patent term adjustment provisions of 35 U.S.C. 154(b), and specifically to a reduction of patent term adjustment under 37 CFR 1.704(c)(8) resulting from the submission of an information disclosure statement after the filing of a request for continued examination under 37 CFR 1.114. *See Supernus Pharm., Inc.* v. *Iancu,* 913 F.3d 1351 (Fed. Cir. 2019). Specifically, the applicant in *Supernus* filed a supplemental information disclosure statement on November 29, 2012, after the filing of a request for continued examination on February 22, 2011. *Id.* at 1354–55. The supplemental information disclosure statement of November 29, 2012 in *Supernus* contained documents cited by the European Patent Office (EPO) in the counterpart EPO patent (from an opposition filed in the EPO patent) in a notice issued by the EPO on August 21, 2012. *Id.* The supplemental information disclosure statement of November 29, 2012 also included the opposition filed in the EPO patent and the EPO's notice of the opposition. *Id.*

37 CFR 1.704(c)(8), the regulatory provision at issue in *Supernus,* provides as a circumstance that constitutes a failure of the applicant to engage in reasonable efforts to conclude prosecution (processing or examination) of an application: ''Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.'' *Id.* The Federal Circuit in *Supernus* noted that it previously held 37 CFR 1.704(c)(8) to be '' 'a reasonable interpretation of the [patent term adjustment] statute' insofar as it includes 'not only applicant conduct or behavior that results in actual delay, but also those having the potential to result in delay irrespective of whether such delay actually occurred.' '' 913 F.3d at 1356 (quoting *Gilead Scis., Inc.* v. *Lee,* 778 F.3d 1341, 1349–50 (Fed. Cir. 2015)). And also that 37 CFR 1.704(c)(8) ''encompasses the filing of a supplemental [information disclosure statement] in the calculated delay period.'' *Id.* The Federal Circuit, however, held that the period of reduction provided for in 37 CFR 1.704(c)(8) as applied in *Supernus* exceeded the period of time during which Supernus failed to engage in reasonable efforts to conclude prosecution of the application because there were no identifiable efforts that Supernus could have undertaken to conclude prosecution of its application during the period between the filing of the request for continued examination (on February 22, 2011) and the EPO's notice of the opposition (on August 21, 2012). *Id.* at 1360. Specifically, the Federal Circuit held that as 35 U.S.C. 154(b)(2)(C)(i) provides that patent term adjustment ''shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application,'' the USPTO cannot count as applicant delay under 35 U.S.C. 154(b)(2)(C) ''a period of time during which there is no identifiable effort in which the applicant could have engaged to conclude prosecution.'' *Supernus,* 913 F.3d at 1359.[1] Thus, the Federal Circuit restricted the patent term adjustment reduction under 37 CFR 1.704(c)(8) due to the filing of the supplemental information disclosure statement on November 29, 2012 to 100 days, corresponding to the period between the notice issued by the EPO on August 21, 2012 and the filing of the supplemental information disclosure statement on November 29, 2012. *Id.* at 1360.

The final rule to implement the patent term adjustment provisions of the Leahy-Smith America Invents Act Technical Corrections Act contains a comprehensive discussion of the USPTO's procedures for patent term adjustment determinations and requests for reconsideration of the patent term adjustment determinations. *See Revisions to Implement the Patent Term Adjustment Provisions of the Leahy-Smith America Invents Act Technical Corrections Act,* 79 FR 27755, 27757–58 (May 15, 2014). The USPTO makes the patent term adjustment determinations indicated in patents by a computer program that uses information recorded in its PALM system relating to the communications exchanged between applicants and the Office during the patent application process. *Id.* at 27757. The patent term adjustment determination to be indicated in a patent is calculated at the time of the mailing of the Issue Notification and is provided with the Issue Notification and printed on the front page of the patent. The event from which the Federal Circuit measured the beginning of the patent term adjustment reduction in *Supernus* (the EPO's notice to Supernus of the opposition on August 21, 2012) is an event external to the USPTO and is thus not an event that is recorded in the USPTO's PALM system. In addition, the USPTO expects that the situation in *Supernus* should arise infrequently. An extended delay between the filing of a request for continued examination and the subsequent Office action (932 days in *Supernus*) should be a rare occurrence now, as the average time between the filing of a request for continued examination and the subsequent Office action is currently only 79 days. Thus, the USPTO's patent term adjustment determinations indicated in patents as provided for in 37 CFR 1.705(a) will continue to be based upon the beginning and ending dates of events recorded in the USPTO's PALM system as specified in 37 CFR 1.703 and 1.704 (including 37 CFR 1.704(c)(8)).

A patentee dissatisfied with the patent term adjustment indicated on the patent may file a request for reconsideration under 37 CFR 1.705(b). A patentee who believes that the period of reduction provided for in 37 CFR 1.704(c)(8) (or any of 37 CFR 1.704(c)) exceeds the period of time during which the patentee failed to engage in reasonable efforts to conclude prosecution of the application because there is no identifiable effort the patentee could have undertaken to conclude prosecution of the underlying

[1] The patent term adjustment reduction at issue in *Supernus* can be avoided by the prompt submission of the information disclosure statement. Specifically, 37 CFR 1.704(d) provides a ''safe harbor'' in that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(6), (c)(8), (c)(9), or (c)(10) if the information disclosure statement is accompanied by one of the statements set forth in 37 CFR 1.704(d)(1)(i) or (d)(1)(ii). *See Interim Procedure for Requesting Recalculation of the Patent Term Adjustment With Respect to Information Disclosure Statements Accompanied by a Safe Harbor Statement,* 83 FR 55102 (Nov. 2, 2018).

application [2] may raise the issue in a timely request for reconsideration of the patent term adjustment under 37 CFR 1.705(b). The request for reconsideration must provide any relevant information, including factual support, which is not recorded in the USPTO's PALM system to show that there was no identifiable effort the patentee could have undertaken to conclude prosecution of the underlying application during a portion of the period provided for in 37 CFR 1.704(c)(8) (or any of the periods set forth in 37 CFR 1.704(c)). For example, in a situation analogous to *Supernus,* the request for reconsideration must include the facts concerning how and when each of the documents contained in the information disclosure statement at issue were first cited by the USPTO or a foreign patent authority in a related or counterpart application. *See* 37 CFR 1.705(b)(2)((iv) (stating that a request for reconsideration must be accompanied by a statement of the facts involved, specifying ''[a]ny circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in [37 CFR] 1.704''). The USPTO's decision on any timely filed patentee request for reconsideration will apply the Federal Circuit's decision in *Supernus* in view of the information presented by the patentee.

While the USPTO has adopted *ad hoc* procedures for seeking reconsideration of the patent term adjustment determination in the past when there have been changes to the interpretation of the provisions of 35 U.S.C. 154(b) as a result of court decisions, these *ad hoc* procedures were adopted because former 35 U.S.C. 154(b)(4) provided a time period for seeking judicial review that was not related to the filing of a request for reconsideration of the USPTO's patent term adjustment determination or the date of the USPTO's decision on any request for reconsideration of the USPTO's patent term adjustment determination. *See* 79 FR at 27759. As 37 CFR 1.705 now provides that its two-month time period may be extended under the provisions of 37 CFR 1.136(a) (permitting an applicant to request reconsideration of the patent term adjustment indicated on the patent as late as seven months after the date the patent was granted), the USPTO is not adopting an *ad hoc* procedure for requesting a patent term adjustment recalculation specifically directed to the Federal Circuit decision in *Supernus. Id.*

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice is covered by OMB control number 0651–0020.

Dated: May 3, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019–09600 Filed 5–8–19; 8:45 am]

BILLING CODE 3510–16–P

[2] An argument presenting a justification for a failure to engage in reasonable efforts to conclude prosecution is distinct from an argument that there is no identifiable effort a patentee could have undertaken to conclude prosecution. 35 U.S.C. 154(b)(3)(C) provides for reinstatement of ''all or part of the cumulative period of time of an adjustment under [35 U.S.C. 154(b)(2)(C)(ii)] if the applicant, prior to the issuance of the patent, makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period'' and is distinct from an argument that there is no identifiable effort a patentee could have undertaken to conclude prosecution. Any request for reinstatement of ''all or part of the cumulative period of time of an adjustment under [35 U.S.C. 154(b)(2)(C)(ii)]'' on the basis of ''a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period'' must comply with the requirements of 35 U.S.C. 154(b)(3)(C) and 37 CFR 1.705(c).

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2019–HQ–0002]

Submission for OMB Review; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 10, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Emergency Mass Notification System (EMNS); OMB Control Number 0701–XXXX.

Type of Request: New collection.

Number of Respondents: 1,000,000.

Responses per Respondent: 1.

Annual Responses: 1,000,000.

Average Burden per Response: 1 minute.

Annual Burden Hours: 16,667.

Needs and Uses: The Emergency Mass Notification System is an Air Force enterprise-wide system that employs commercial software to send notices to the AF population through desktop, mobile application, telephone, text messaging alerts, and Giant Voice systems at Main Operating Bases (MOB). This system provides individuals with near-real time notifications sent directly from the AF/MAJCOM/Installation command posts.

This single AF enterprise solution will provide lifesaving and mission protective measures within the AF. The system shall have the capability of delivering reliable and secure emergency threat notifications to all personnel at all AF locations on a 24 hour/7 day a week basis.

EMNS is designated as a National Security System (NSS). EMNS must be maintained as a high integrity, high availability capability vital to operational readiness. The absence of such a system could result in immediate and sustained loss of mission effectiveness.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to

Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 3, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–09505 Filed 5–8–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2019–HQ–0006]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 10, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Academic Certification for Marine Corps Officer Candidate Program; NAVMC Form 10469; OMB Control Number 0703–0011.

Type of Request: Extension.

Number of Respondents: 3,500.

Responses per Respondent: 1.

Annual Responses: 3,500.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 875.

Needs and Uses: The Marine Corps Officer Selection Officer (OSO) will submit the completed original NAVMC Form 10469 with the officer applications for the Platoon Leaders' Class and Officer Candidate Course (OCC) Programs when the candidate has not yet completed the requirements for a degree. This form is to be completed by a school official of the applicant's college or university and verified by the OSO. Use of this form is the only accurate and specific method to determine an officer-candidate applicant's academic qualifications to serve as a Marine Corps Officer.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 3, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–09495 Filed 5–8–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2019–HQ–0007]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 10, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Personal Information Questionnaire; NAVMC 100064; OMB Control Number 0703–0012.

Type of Request: Extension.

Number of Respondents: 16,700.

Responses per Respondent: 1.

Annual Responses: 16,700.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 4,175.

Needs and Uses: The Officer Selection Officer (OSO) will forward a Personal Information Questionnaire (PIQ) form to individuals to be named by the applicant for completion and return as character references. The questionnaire establishes a pattern of moral character on individuals applying for the Marine Corps Officer Program.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 3, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–09496 Filed 5–8–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0010]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 10, 2019.

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–2019–ICCD–0010. 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. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Angela Hernandez-Marshall, 202–205–1909.

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: Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection.

OMB Control Number: 1810–0698.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households.

Total Estimated Number of Annual Responses: 2,326.

Total Estimated Number of Annual Burden Hours: 3,004.

Abstract: ''Indian Education-Individual Reporting on Regulatory Compliance Related to the Indian Education Professional Development Program's Service Obligation and the Government Performance and Results Act of 1993 (GPRA)''.

The Indian Education Professional Development program, authorized under title VII, part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA), is designed to increase the number of, provide training to, and improve the skills of American Indian or Alaska Natives serving as teachers and school administrators in schools serving American Indian or Alaska Native students.

Section 7122(h) of the ESEA (20 U.S.C. 7442(h)) requires that individuals who receive financial assistance through the Indian Education Professional Development program subsequently complete a service obligation equivalent to the amount of time for which the participant received financial assistance. Participants who do not satisfy the requirements of the regulations must repay all or a pro-rated part of the cost of assistance, in accordance with 20 U.S.C. 7442(h) and 34 CFR 263.8(a)(3). The regulations in part 263 implement requirements governing, among other things, the service obligation and reporting requirements of the participants in the Indian Education Professional Development program, and repayment of financial assistance by these participants. In order for the Federal Government to ensure that the goals of the program are achieved, certain data collection, recordkeeping, and documentation are necessary.

In addition, GPRA requires Federal agencies to establish performance measures for all programs, and the Department has established performance measures for the Indian Education Professional Development program. Data collection from participants who have received financial assistance under the Indian Education Professional Development program is a necessary element of the Department's effort to evaluate progress on these measures.

The Department tracks participants who are receiving or have previously received support through the Indian Education Professional Development program. Participants must sign a payback agreement that includes contact information. Additionally, the Department receives information about participants from institutions of higher education (IHEs) and other eligible grantees when participants are no longer receiving assistance through the Indian Education Professional Development program. When the performance period is complete, the participant data are collected from the grantee and also from the participants.

Dated: May 6, 2019.

Stephanie Valentine,

PRA Clearance Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–09582 Filed 5–8–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP19–206–000]

Wyoming Interstate Company, L.L.C.; Notice of Application

Take notice that on April 23, 2019, Wyoming Interstate Company, L.L.C (WIC), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP19–206–000, an application

pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Commission's regulations requesting authorization to abandon by sale its approximately 154-mile, 24-inch-diameter Medicine Bow Lateral, Line No. 29A to its affiliate Hiland Crude, LLC, so that the pipeline may be converted to oil transportation service. WIC states the parallel loop Line No. 29B will continue to remain in natural gas service, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Francisco Tarin Director, Regulatory, Wyoming Interstate Company, L.L.C, Post Office Box 1087, Colorado Springs, CO 80944, (719) 667–7517, *WICregulatoryaffairs@kindermorgan.com* or David K. Dewey, Assistant General Counsel, (719) 520–4227, *WICLegalFERC@kindermorgan.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made with the Commission and must provide a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16- 4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived,'' and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on May 23 2019.

Dated: May 2, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09483 Filed 5–8–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC ¶ 61,167 at ¶ 50 (2018).

[2] 18 CFR 385.214(d)(1).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10615–056]

Tower Kleber Limited Partnership; 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.:* 10615–056.

c. *Date Filed:* March 11, 2019.

d. *Submitted by:* Tower Kleber Limited Partnership.

e. *Name of Project:* Tower and Kleber Hydroelectric Project.

f. *Location:* On the Black River in the Forest and Waverly Townships of Cheboygan County, Michigan. The project does not occupy federal lands.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Tiffany Heon, Environmental Officer/FERC Relicensing Project Manager, Tower Kleber Limited Partnership, 764 Lexington Cr., Thunder Bay, Ontario, Canada P7B 7B8; phone: (647) 220–4476; email: *tiffanyheon@hotmail.com.*

i. *FERC Contact:* Lee Emery at (202) 502–8379; or email at *lee.emery@ferc.gov.*

j. Tower Kleber Limited Partnership filed its request to use the Traditional Licensing Process on March 11, 2019. Tower Kleber Limited Partnership provided public notice of its request on February 28, 2019 and March 1, 2019.

In a letter dated May 2, 2019, the Director of the Division of Hydropower Licensing approved Tower Kleber Limited Partnership'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/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402. We are also initiating consultation with the Michigan State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Tower Kleber Limited Partnership as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Tower Kleber Limited Partnership 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 address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 10615. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 2, 2022.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: May 2, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09488 Filed 5–8–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–609–000.
Applicants: Texas Gas Transmission, LLC.
Description: Report Filing: 2018 Operational Purchases and Sales Report.
Filed Date: 5/1/19.
Accession Number: 20190501–5015.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP13–212–000.
Applicants: Boardwalk Storage Company, LLC.
Description: Report Filing: 2018 Operational Purchases and Sales Report.
Filed Date: 5/1/19.
Accession Number: 20190501–5016.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP16–864–001.
Applicants: Columbia Gas Transmission, LLC.
Description: Compliance filing Revenue Sharing Report 2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5022.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1159–001.
Applicants: Texas Eastern Transmission, LP.
Description: Tariff Amendment: Amendment Filing for Spotlight NRA (Docket RP19–1159) to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5026.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1184–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Columbia Gas 860005 May 1 Releases (2) to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5013.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1186–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—NSTAR Gas 510482 Releases to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5014.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1187–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Rate Schedule MLS–1 Cleanup Filing to be effective 5/31/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5017.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1188–000.
Applicants: ANR Storage Company.
Description: Compliance filing 2019 Operational Purchases and Sales Reports.
Filed Date: 5/1/19.
Accession Number: 20190501–5018.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1189–000.
Applicants: Blue Lake Gas Storage Company.
Description: Compliance filing 2019 Operational Purchases and Sales Report.
Filed Date: 5/1/19.
Accession Number: 20190501–5019.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1190–000.
Applicants: Great Lakes Gas Transmission Limited Partnership.
Description: Compliance filing 2019 Operational Purchases and Sales Report.
Filed Date: 5/1/19.
Accession Number: 20190501–5021.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1191–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCRA 2019 Out-of-Cycle to be effective 6/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5028.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1192–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—CNX to Morgan Stanley 8957586 to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5031.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1193–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—5/1/2019 to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5034.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: RP19–1194–000.
Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Remove expired agreements from Tariff eff 5–1–2019 to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5059.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1195–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Remove expired agmts from Tariff eff 5–1–2019 to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5066.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1196–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2019 Update to Title Sheets to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5088.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1197–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Volume No. 2- Tidal Energy Marketing (US) L.L.C. SP347780 to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5153.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1198–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: Compliance filing 2019 GNGS TUP/SBA Filing.
Filed Date: 5/1/19.
Accession Number: 20190501–5154
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1199–000.
Applicants: Southeast Supply Header, LLC.
Description: Compliance filing 2019 SESH TUP/SBA Annual Filing.
Filed Date: 5/1/19.
Accession Number: 20190501–5157.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1200–000.
Applicants: Sabal Trail Transmission, LLC.
Description: § 4(d) Rate Filing: 2019 TUP/SBA Annual Filing to be effective 6/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5159.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1201–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 5–1–19 to be effective 6/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5163.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1202–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 5–1–19 to be effective 6/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5166.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1203–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20190501 Contact Information Change to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5188.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1204–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Retainage Agreements 5–1–2019 to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5280.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1205–000.
Applicants: Black Hills Gas Distribution, LLC,Black Hills Service Company, LLC.
Description: Joint Petition for Limited Waivers of Capacity Release Regulations and Policies, et al. of Black Hills Gas Distribution, LLC, et al. under RP19–1205.
Filed Date: 4/30/19.
Accession Number: 20190430–5530.
Comments Due: 5 p.m. ET 5/7/19.
Docket Numbers: RP19–1206–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20190501 Winter PRA to be effective 11/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5299.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1207–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to Negotiated Rate Agreement—Tenaska Marketing Ventures to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5320.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1208–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Agreements Filing (Mex Gas) to be effective 6/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5321.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1209–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (APS May 2019) to be effective 5/2/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5379.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1210–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Vol 2—Negotiated Rate Agreements—Spotlight to be effective 5/1/2019.
Filed Date: 5/1/19.
Accession Number: 20190501–5387.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1211–000.
Applicants: Northern Border Pipeline Company.
Description: Compliance filing 2019 Operational Purchases and Sales Report.
Filed Date: 5/1/19.
Accession Number: 20190501–5396.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP19–1212–000
Applicants: Bison Pipeline LLC.
Description: Compliance filing 2019 Operational Purchases and Sales Reports.
Filed Date: 5/1/19.
Accession Number: 20190501–5398.
Comments Due: 5 p.m. ET 5/13/19.
Docket Numbers: RP95–408–086.
Applicants: Columbia Gas Transmission, LLC.
Description: Annual Report on Sharing Profits from Base Gas Sales with Customers of Columbia Gas Transmission, LLC under RP95–408.
Filed Date: 5/1/19.
Accession Number: 20190501–5233.
Comments Due: 5 p.m. ET 5/13/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 2, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09487 Filed 5–8–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–465–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2019–05–01_Response Letter to Order 841 Compliance to be effective 5/1/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5401.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–467–001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Response to FERC questions on ESRs (Order No. 841) to be effective N/A.

Filed Date: 5/1/19.

Accession Number: 20190501–5404.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–468–001.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2019–05–01 Response to Deficiency Letter—Compliance with Order No. 841 to be effective N/A.

Filed Date: 5/1/19.

Accession Number: 20190501–5395.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–469–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Response to 4/1/2019 Letter Req Additional Information re Order No. 841 to be effective 12/3/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5390.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–470–001.

Applicants: ISO New England Inc., Eversource Energy Service Company (as agent).

Description: Compliance filing: Response to April 1, 2019 Letter Re: Compliance Filing for Order No. 841 to be effective 12/3/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5403.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1467–001.

Applicants: Arizona Public Service Company.

Description: Tariff Amendment: Supplemental Filng to Cancellation of Service Agreement No. 352 to be effective 5/28/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5391.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1755–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 33—WAPA Triangle Agreement_Exhibit A Revision No. 53 to be effective 7/1/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5384.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1756–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: Montana OATT Formula Rate (Part 1) to be effective 7/1/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5392.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1757–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SCE Recollation of WDAT Filing 8 of 9 to be effective 5/1/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5394.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1758–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SCE Recollation of WDAT Filing 9 of 9 to be effective 5/1/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5399.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1759–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ICSA, SA No. 5189; Queue No. AB2–040 to be effective 9/10/2018.

Filed Date: 5/1/19.

Accession Number: 20190501–5400.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1760–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SCE Recollation of Rate Schedules to be effective 5/1/2019.

Filed Date: 5/1/19.

Accession Number: 20190501–5402.

Comments Due: 5 p.m. ET 5/22/19.

Docket Numbers: ER19–1761–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SCE Recollation of WDAT Filing 5 of 9 to be effective 5/1/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5003.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1762–000.

Applicants: Electric Energy, Inc.

Description: Compliance filing: compliance 2019 Attachment M to be effective 5/2/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5005.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1763–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3446R1 Group NIRE/SPS Facilities Construction Agreement to be effective 7/1/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5015.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1764–000.

Applicants: Applied Energy LLC

Description: Tariff Cancellation: MBR Tariff Cancellation to be effective 5/3/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5057.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1765–000.

Applicants: CSOLAR IV South, LLC.

Description: § 205(d) Rate Filing: Cost True-Up Amendment to Co-Tenancy and Shared Use Agreement to be effective 5/3/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5061.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1766–000.

Applicants: CSOLAR IV South, LLC.

Description: § 205(d) Rate Filing: New Substation Facilities Agreement to be effective 5/3/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5062.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1768–000.

Applicants: Duquesne Light Company.

Description: Tariff Cancellation: Notice of Cancellation of Elrama Connection and Site Agreement to be effective 12/31/2014.

Filed Date: 5/2/19.

Accession Number: 20190502–5074.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1769–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SCE Recollation of TO Tariff Filing 2a of 3 to be effective 5/1/2019.

Filed Date: 5/2/19.

Accession Number: 20190502–5077.

Comments Due: 5 p.m. ET 5/23/19.

Docket Numbers: ER19–1770–000.

Applicants: Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy

Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc.

Description: Post-Retirement Benefits Other than Pensions for 2018 Test Year of Entergy Arkansas, Inc., et al.

Filed Date: 5/1/19.

Accession Number: 20190501–5447.

Comments Due: 5 p.m. ET 5/22/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 2, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09482 Filed 5–8–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2016–0010; FRL–9993–12–ORD]

Proposed Information Collection Request; Comment Request; Recordkeeping for Institutional Dual Use Research of Concern (iDURC) Policy Compliance (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Recordkeeping for Institutional Dual Use Research of Concern (iDURC) Policy Compliance'' (EPA ICR No. 2530.03, OMB Control No. 2080–0082) 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 January 1, 2020. 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 July 8, 2019.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2016–0010 online using *www.regulations.gov* (our preferred method), by email to *ord.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: Viktoriya Plotkin, National Homeland Security Research Center, Office of Research and Development, (8101R), 27 Tarzwell Drive, Narragansett, Rhode Island, 02882; telephone number: 401–782–3178; fax number: 401–782–3030; email address: *plotkin.viktoriya@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: To comply with the U.S. Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (DURC Policy), EPA must ensure that the institutions subject to DURC Policy appropriately train their laboratory personnel and maintain records of their training. This training is specific to ''dual use research of concern,'' and should include information on how to properly identify DURC, appropriate methods for ensuring research that is determined to be DURC, and that it is conducted and communicated responsibly.

Form numbers: None.

Respondents/affected entities: Private sector and federal-owned/contractor-operated labs.

Respondent's obligation to respond: Mandatory (Per EPA Order 1000,19: Policy and Procedures for Managing Dual Use Research of Concern).

Estimated number of respondents: Forty (total).

Frequency of response: Only once and/or as necessary.

Total estimated burden: 52 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,590 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in estimates: There is decrease of 52 burden hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to an adjustment in estimates to account for the number of hours required to perform recordkeeping duties.

Dated: April 23, 2019.

Jennifer Orme-Zavaleta,

Principal Deputy Assistant Administrator for Science.

[FR Doc. 2019–09589 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9993–19–OA]

Notification of a Public Meeting of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the chartered SAB. Among the topics being discussed will be the EPA's semi-annual regulatory agenda and the agency's request for SAB advice regarding upcoming actions related to an update to the ''2005 EPA Guidelines for Carcinogen Risk Assessment'' and creation of guidelines for non-cancer risk assessment. In addition, the SAB will receive briefings from the Office of Research and Development and the Office of Water. The full meeting agenda will be posted on the SAB website (*http://www.epa.gov/sab*) before the meeting.

DATES: The public meeting will be held on Wednesday, June 5, 2019, from 9:30 a.m. to 5:00 p.m. and Thursday June 6, 2019, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Sphinx on K conference facility, 1315 K Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the meeting may contact Dr. Thomas Armitage, Designated Federal Officer (DFO), EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; via telephone/voice mail (202) 564–2155, or email at *armitage.thomas@epa.gov*. General information concerning the SAB can be found on the EPA website at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the scientific and technical basis for agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public meeting to discuss and deliberate on topics that include the agency's semiannual regulatory agenda and EPA's request for SAB advice regarding upcoming actions related to an update to the ''2005 EPA Guidelines for Carcinogen Risk Assessment'' and creation of guidelines for non-cancer risk assessment. As part of the EPA's effort to routinely inform the SAB about proposed and planned agency actions that have a scientific or technical basis, the agency provides notice to the SAB when the Office of Management and Budget publishes the ''Unified (Regulatory) Agenda.'' The SAB convened a Work Group to review information provided in the agency's spring 2018 regulatory agenda regarding EPA planned actions and their supporting science. The SAB will discuss recommendations and information developed by the Work Group regarding the adequacy of the science supporting the planned actions. EPA is also asking for SAB advice regarding upcoming actions related to an update to the ''2005 EPA Guidelines for Carcinogen Risk Assessment'' and creation of guidelines for non-cancer risk assessment.

Availability of Meeting Materials: A meeting agenda and other materials for the meeting will be placed on the SAB website at *http://epa.gov/sab*.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the EPA's charge, meeting materials, or the group providing advice. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes. Persons interested in providing oral statements at the June 5–6, 2019, meeting should contact Dr. Thomas Armitage, DFO, in writing (preferably via email) at the contact information noted above by May 29, 2019, to be placed on the list of registered speakers. *Written Statements:* Written statements for the June 5–6, 2019, meeting should be received in the SAB Staff Office by May 29, 2019, so that the information can be made available to the SAB for its consideration prior to the meeting. Written statements should be supplied to the DFO at the contact information above via email (preferred) or in hard copy with original signature. Submitters are requested to provide a signed and unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Armitage at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated: April 25, 2019.

Khanna Johnston,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2019–09590 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0206; FRL–9992–75]

Mefentrifluconazole; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the North Dakota Department of Agriculture (NDA), the Michigan Department of Agriculture and Rural Development (MDARD), and the Minnesota Department of Agriculture (MDA) to use the fungicide mefentrifluconazole (CAS No. 1417782–03–6) to treat up to 376,000 acres of sugarbeets to control *Cercospora* leaf spot disease. The applicants propose use of a new chemical which has not been registered

by EPA as a pesticide. Therefore, EPA is soliciting public comment before making the decision whether to grant the exemptions.

DATES: Comments must be received on or before May 24, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2019–0206, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is the Agency taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. The NDA, the MDARD, and the MDA have requested the EPA Administrator to issue specific exemptions for the use of mefentrifluconazole on sugarbeets to control Cercospora leaf spot disease. Information in accordance with 40 CFR part 166 was submitted as part of the requests.

As part of the requests, the applicants assert that the development of resistance to available fungicides in the fungal pathogen *Cercospora beticola,* has resulted in an urgent and non-routine pest control situation that is expected to cause significant economic losses without the requested use. The applicants propose to make no more than two applications at a rate of 0.13 lb. (maximum total of 0.26 lb.) of active ingredient mefentrifluconazole per acre, on up to 376,000 acres of sugarbeets grown in North Dakota, Michigan, and Minnesota from June 15 to September 7, 2019. A total of 97,760 lbs. of mefentrifluconazole could be used (maximum acreage at highest rate), although the applicants state that the affected acreage is more likely to receive only one treatment.

This notice does not constitute a decision by EPA on the applications themselves. The regulations governing FIFRA section 18 at 40 CFR 166.24(a)(1), require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical which has not been registered by EPA as a pesticide. The notice provides an opportunity for public comment on the application. The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemptions requested by the NDA, the MDARD, and the MDA.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 1, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2019–09484 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0604; FRL–9993–22]

TSCA Science Advisory Committee on Chemicals (SACC); Notice of Rescheduled Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the rescheduled meeting dates for the 4-day meeting of the Toxic Substances Control Act (TSCA) Science Advisory Committee on Chemicals (SACC) that had been previously scheduled for January to consider and review the draft Risk Evaluation for Colour Index (C. I.) Pigment Violet 29 (PV29) and associated documents. This in-person meeting will also include a general TSCA orientation for the TSCA SACC. A portion of the in-person meeting will be closed to the public for the committee's discussion of information claimed as confidential business information (CBI). As previously announced in April, the public is invited to comment on the

draft risk evaluation for PV29 and related documents, including the draft charge questions, in advance of and during this peer review meeting. The TSCA SACC will consider these comments during their discussions.

DATES: *Meeting:* The 4-day meeting will be held from 9:00 a.m. to approximately 5:30 p.m. Eastern Time, June 18 to 21, 2019.

Comments: Submit your written comments, following the detailed instructions provided in Unit I.C. of this document, on or before May 17, 2019. This comment period was already announced in the **Federal Register** on April 17, 2019 (84 FR 16011; FRL–9990–36 and corrected by 84 FR 16485, April 19, 2019). As described in Unit I.C., EPA will also accept written comments at the start of meeting.

Requests to make oral comments during the meeting will be included on the meeting agenda if received on or before May 28, 2019. As described in Unit I.C., such requests may also be made up to and possibly during the meeting.

Special accommodations: For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: *In-Person Meeting:* The in-person meeting will be held at the Holiday Inn Rosslyn at Key Bridge, Rosslyn Ballroom, 1900 North Fort Myer Drive, Arlington, VA 22209. The meeting may also be available via webcast. Please refer to the TSCA SACC website at *https://www.epa.gov/tsca-peer-review* for information on how to access the webcast. Please note that the webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in webcasting outages, the in-person meeting will continue as planned.

Comments. Submit your written comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0604, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPPT Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Requests to present oral comments, and requests for special accommodations. Submit requests to present oral comments or for special accommodations, to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Todd Peterson, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6428; email address: *peterson.todd@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may be of interest to persons who are interested in risk evaluations of chemical substances under the Toxic Substances Control Act (TSCA). Since other entities may also be interested in this risk evaluation, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

1. *Submitting CBI.* Do not submit CBI information to EPA through *http://www.regulations.gov* or via email. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments.

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

C. How may I participate in the in-person meeting?

You may participate in the in-person peer review meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPPT–2018–0604 in the subject line on the first page of your submissions.

1. *Written comments.* Written comments on the draft risk evaluation for PV29 and related documents should be submitted using the instructions in **ADDRESSES** and Unit I.B. Submitting written comments by the comment due date provides the TSCA SACC with the time necessary to review the written comments before the meeting. Anyone wishing to submit written comments at the meeting should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** before the date of the in-person meeting and must provide 30 copies to the DFO at the start of the meeting for the DFO to distribute to the TSCA SACC and the Agency at the meeting. The TSCA SACC will consider written comments during their discussions.

2. *Oral comments.* The Agency encourages each individual or group wishing to make brief oral comments to the TSCA SACC during the in-person meeting to submit their request to the DFO in order to be included on the meeting agenda. Requests to present oral comments will also be accepted until the date of the in-person meeting and, to the extent that time permits, the Chair of the TSCA SACC may permit the presentation of oral comments at the in-person meeting by interested persons who have not previously requested time. The request to present oral comments should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment.

Oral comments before the TSCA SACC during the in-person meeting are limited to approximately 5 minutes unless prior arrangements have been made with the DFO. In addition, each speaker should provide 30 copies of his or her comments and presentation to the DFO at the start of the meeting for the DFO to distribute to the TSCA SACC and the Agency at the meeting. The TSCA SACC will consider oral comments during their discussions.

3. *Seating at the meeting.* Seating at the meeting will be open and on a first-come basis.

II. Background

A. Purpose of the TSCA SACC

The Science Advisory Committee on Chemicals (SACC) was established by EPA in 2016 under TSCA, 15 U.S.C. 2601 *et seq.,* as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Public Law 114–182, 140 Stat. 448 (2016), and operates in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2 (1972). The SACC supports activities under TSCA, the Pollution

Prevention Act (PPA), 42 U.S.C. 13101 *et seq.,* and other applicable statutes. The SACC provides expert independent scientific advice and recommendations to the EPA on the scientific and technical aspects of risk assessments, methodologies, and pollution prevention measures and approaches for chemicals regulated under TSCA.

The SACC is comprised of experts in: Toxicology; human health and environmental risk assessment; exposure assessment; and related sciences (*e.g.,* synthetic biology, pharmacology, biotechnology, nanotechnology, biochemistry, biostatistics, PBPK modeling, computational toxicology, epidemiology, environmental fate, and environmental engineering and sustainability). The SACC currently consists of 26 members. When needed, the committee will be assisted in their reviews by ad hoc participants with specific expertise in the topics under consideration.

B. Purpose of This Public Meeting

EPA is announcing the rescheduled meeting dates for the TSCA SACC's public meeting to review PV29 that was previously announced in the **Federal Register** on November 30, 2018 (83 FR 61629) (FRL–9983–08). As previously announced, the public is invited to comment on the draft risk evaluation for PV29 and related documents, including the draft charge questions, in advance of and during this peer review meeting. The TSCA SACC will consider these comments during their discussions. See 83 FR 57473, November 15, 2018 (FRL–9986–45) and 84 FR 16011, April 17, 2019 (FRL–9990–36), as corrected by 84 FR 16485, April 19, 2019.

The focus of the TSCA SACC meeting is to peer review the Agency's draft risk evaluation of PV29. After the peer review process, EPA will consider reviewer comments and recommendations, and public comments to finalize the risk evaluation. The discussion of charge questions, for scope and clarity, originally planned for January 8, 2019, will be folded into the rescheduled in-person meeting.

As previously announced, approximately one hour of the TSCA SACC's in-person meeting will be closed to the public for the TSCA SACC to consider and discuss material that has been claimed as CBI provided to the TSCA SACC as background for the draft risk evaluation for PV29. In accordance with FACA section 10(d), 5 U.S.C. App. 2, and section (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, this approximately one-hour session of the TSCA SACC will be closed to the public to avoid the potential disclosure of CBI, which is protected from disclosure by statute. The Administrator's determination for a closed meeting is available in the docket.

C. TSCA SACC Documents and Meeting Minutes

EPA's draft risk evaluation for PV29, related supporting materials, and draft charge/questions to the TSCA SACC are available on the TSCA SACC website and in the meeting docket. In addition, the Agency will provide additional background documents (*e.g.,* TSCA SACC members participating in this meeting and the meeting agenda) as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available at *http://www.regulations.gov* and the TSCA SACC website at *https://www.epa.gov/tsca-peer-review.*

TSCA SACC will prepare the Meeting Minutes and Final Report document summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the TSCA SACC website and placed in the meeting docket.

Authority: 15 U.S.C. 2625(o) *et seq.;* 5 U.S.C Appendix 2 *et seq.*

Dated: May 1, 2019.

Hayley Hughes,

Director, Office of Science Coordination and Policy.

[FR Doc. 2019–09489 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0008; FRL–9991–15]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number, and the File Symbol or EPA Registration Number of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI

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

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

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Uses

1. *EPA registration number(s):* 100–1609, 100–1601, 100–1602, 100–1603, 100–1605, and new seed treatment product 100–RAUI. *Docket ID number:* EPA–HQ–OPP–2018–0688. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Pydiflumetofen. *Product type:* Fungicide. *Proposed use(s):* Foliar use proposed on Berries, Low Growing Crop Subgroup 13–07G (except cranberry and blueberry); *Brassica* Head and Stem Crop Group 5–16; *Brassica* Leafy Greens Subgroup 4–16B; Bulb Vegetable Crop Group 3–07A; Bulb Vegetable Crop Group 3–07B; Bushberry Crop Subgroup 13–07B; Citrus Crop Subgroup 10–10; Cottonseed Subgroup 20C; Edible-podded Legume Vegetables Subgroup 6A; Leaves of Root and Tuber Vegetables, Crop Group 2; Succulent Shelled Pea and Bean Subgroup 6B; Pome Fruit Crop Group 11–10; Root Vegetable Crop Group 1A; Sorghum; Stone Fruit Crop Group 12–12 (Subgroups 12A, 12B and 12C); Sunflower, Oilseed Subgroup 20B; and Tree Nuts Crop Group 14–12. Seed treatment proposed for use on Rapeseed Subgroup 20A and soybean. Contact: RD.

2. *EPA registration number:* 7969–262. *Docket ID number:* EPA–HQ–OPP–2019–0060. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Topramezone. *Product type:* Herbicide. *Proposed use:* African Marigold. Contact: RD.

3. *EPA registration number:* 10163–357. *Docket ID number:* EPA–HQ–OPP–2017–0565. *Applicant:* Gowan Company LLC, P.O. Box 5569, Yuma, AZ 85366–5569. *Active ingredient:* Extract of *Swinglea glutinosa. Product type:* Biochemical fungicide. *Proposed use:* Addition of aerial and chemigation applications and residential uses. Contact: BPPD.

4. *EPA registration numbers:* 67690–6 and 67690–78. *Docket ID number:* EPA–HQ–OPP–2019–0074. *Applicant:* SePRO Corporation, 11550 North Meridian Street, Suite 600, Carmel, IN 46032. *Active ingredient:* Fluridone. *Product type:* Herbicide. *Proposed uses:* Avocado, mandarin, pistachio, pomegranate, and stone fruit crop group 12–12. Contact: RD.

5. *EPA registration number(s):* 71512–2 and 71512–3. *Docket ID number:* EPA–HQ–OPP–2018–0832. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077. *Active ingredient:* Cyazofamid. *Product type:* Fungicide. *Proposed use(s):* New use on ginseng and greenhouse cucumber; conversion from *Brassica,* leafy greens, subgroup 5B to *Brassica,* leafy greens, subgroup 4–16B; conversion from leafy greens subgroup 4A to Leafy greens subgroup 4–16A; conversion from *Brassica,* head and stem, subgroup 5A to Vegetable, *Brassica,* head and stem group 5–16 and kohlrabi. Contact: RD

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 1, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–09490 Filed 5–8–19; 8:45 am]

BILLING CODE 6560–50–P

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

Paperwork Reduction Act; Proposed Collection; Comment Request

AGENCY: Office of National Drug Control Policy.

ACTION: 60-Day notice and request for comments. Revisions of Currently Approved Collection: Drug-Free Communities Support Program National Evaluation.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of National Drug Control Policy (ONDCP) announces it will submit to the Office of Management and Budget (OMB) and Office of Information and Regulatory Affairs (OIRA) an information collection request.

DATES: ONDCP encourages and will accept public comments on or before 60 days after the date of this publication.

ADDRESSES: Address all comments in writing within 60 days to Helen Hernandez. Email is the most reliable means of communication. Ms. Hernandez's email address is *HHernandez@ondcp.eop.gov.* Mailing address is: Executive Office of the President, Office of National Drug Control Policy, Drug-Free Communities (DFC) Support Program, 1800 G Street NW, Suite 9110, Washington, DC 20006. Copies of documents submitted to OMB and other information is available from Ms. Hernandez who may be contacted at 202–395–6665.

SUPPLEMENTARY INFORMATION:

Abstract: ONDCP administers the Drug-Free Communities (DFC) Support Program and Community-Based Coalition Enhancement Grants to Address Local Drug Crisis (CARA Local Drug Crisis) Programs. The DFC Program has two primary goals: To reduce youth substance abuse, and to support community anti-drug coalitions by establishing, strengthening, and fostering collaboration among public and private agencies. The CARA Local Drug Crisis grant program funds current or former DFC grant award recipients to focus on preventing and reducing the abuse of opioids or methamphetamines and the abuse of prescription medications among youth ages 12–18 in communities throughout the United States.

Congress mandates an evaluation of the DFC program to determine its effectiveness in meeting objectives (see 21 U.S.C. 1521 *et al.*). Under the CARA Local Drug Crisis program statute, CARA Local Drug Crisis data collection is authorized and required by Public Law 114–198 Sec 103, ''a grant under this section shall be subject to the same evaluation requirements and procedures as the evaluation requirements and procedures imposed on the recipients of a grant under the Drug-Free Communities Act of 1997, and may also include an evaluation of the effectiveness at reducing abuse of opioids or methamphetamines''. ONDCP awarded a contract for a DFC grant oversight system at the end of 2014, following a competitive request for proposals process. The DFC

Management and Evaluation (DFC *Me*) system was launched in 2016 and continues to be used (*www.dfcme.ondcp.eop.gov*). The development and implementation of the new DFC *Me* system provided an improved platform for DFC recipients to meet data reporting requirements of the grant, introduced a DFC Learning Center where resources and success stories can be shared, and strengthened ONDCP's continued oversight of the DFC program. The data collected through this system is more user friendly and validates data during entry, therefore reducing the burden on grant award recipients.

ONDCP's Drug-Free Communities office will continue to utilize the case study protocols previously approved by OMB to document coalition practices, successes and challenges. Approximately nine DFC grant award recipients are selected each year to highlight in the case studies. The information from the case studies will be used to illustrate not only what works to reduce drug use in a community setting, but also how and why it works.

The CARA Local Drug Crisis program evaluation will make use of the monitoring and tracking questionnaire to serve as a semi-annual report for grant award recipients and will provide information to ONDCP and the Administration's effort to address the opioid crisis.

Title of Information Collection: Web-based data collection, surveys and interviews of DFC and CARA Local Drug Crisis grant award recipients.

Title: Drug-Free Communities (DFC) Support Program National Evaluation.

Frequency: Semi-annual Progress Reports by DFC Program Directors via DFC *Me,* and annually for DFC Program Directors and selected coalition members via the Coalition Classification Tool (CCT). Core measures are collected and submitted every two years in Progress Reports. Case study interviews and electronic surveys of Program Directors and electronic surveys of selected coalition members will be accomplished once a year.

Affected Public: DFC current grant award recipients and CARA Local Drug Crisis grant award recipients (includes both current and former DFC grant award recipients).

Estimated Burden: ONDCP expects that the time required to complete each semi-annual report via DFC *Me* will be approximately six hours, and each CCT report will take approximately one hour to complete. Face to face interviews will take 1–2 hours. The estimated total amount of time required by all respondents over one year, including Program Directors and recipients to complete DFC *Me,* CCT, surveys, and interviews, is 9,833 hours.

Goals: ONDCP intends to use the data of the DFC National Evaluation to assess the DFC Program's effectiveness in preventing and reducing youth substance use. Two primary objectives of the evaluation are to: (1) Regularly monitor, measure and analyze data in order to report on the progress of the DFC program and its recipients on program goals, and (2) providing technical assistance support to DFC grant award recipients in effectively collecting and submitting data and in understanding the role of data in driving local coalition efforts. ONDCP intends to use the data of the DFC National Evaluation to assess CARA Local Drug Crisis grant award recipients effectiveness and inform ONDCP and the Administration's efforts to address the opioid crisis.

Comment Request: ONDCP especially invites comments on: Whether the proposed data are proper for the functions of the agency; whether the information will have practical utility; the accuracy of ONDCP's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions; ways to enhance the quality, utility, and clarity of the information to be collected; and, ways to ease the burden on proposed respondents, including the use of automated collection techniques or other forms of information technology. Comments will be accepted for sixty days.

Dated: May 6, 2019.

Michael Passante,

Acting General Counsel.

[FR Doc. 2019–09553 Filed 5–8–19; 8:45 am]

BILLING CODE 3280–F5–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before July 8, 2019.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202–418–2054.

SUPPLEMENTARY INFORMATION: The following applicants filed AM or FM proposals to change the community of license: GRAYS HARBOR INSTITUTE, KGHE(FM), Fac. ID No. 176823, Channel 206A, To MONTESANO, WA, From ELMA, WA, File No. BPED–20190415AAC; KUTE, INC., KZNM(FM), Fac. ID No. 183360, Channel 265C1, To TOWAOC, CO, From MILAN, NM, File No. BPH–20181106ABB; EMMIS AUSTIN RADIO BROADCASTING COMPANY, L.P., KBPA(FM), Fac. ID No. 41213, Channel 278C1, To AUSTIN, TX, From SAN MARCOS, TX, File No. BPH–20190206AAK; EDUCATIONAL MEDIA FOUNDATION, KXAI(FM), Fac. ID No. 7084, Channel 279A, To BALCONES HEIGHTS, TX, From REFUGIO, TX, File No. BPED–20190206AAJ; and 3 DAUGHTERS MEDIA, INC., WMNA–FM, Fac. ID No. 9985, Channel 292C3, To HALIFAX, VA, From GRETNA, VA, File No. BPH–20190211ACD.

The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW, Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.*

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2019–09572 Filed 5–8–19; 8:45 am]

BILLING CODE 6712–01–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 (''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 May 28, 2019.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Stephen K. Hayes, Presho, South Dakota, individually and as trustee of the Margery I. Hayes Trust, Fort Pierre, South Dakota and Stephen K. Hayes, Margery I. Hayes Trust, Mary A. Dott, Sioux Falls, South Dakota, and JoAnne M. Wingert, Benton City, Washington, as a group acting in concert;* to retain voting shares of Draper Holding Company, Inc., Fort Pierre, South Dakota, and thereby indirectly retain shares of Dakota Prairie Bank, Fort Pierre, South Dakota.

Board of Governors of the Federal Reserve System, May 6, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–09563 Filed 5–8–19; 8:45 am]

BILLING CODE 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 June 7, 2019.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *BancFirst Corporation, Oklahoma City, Oklahoma;* to acquire voting shares of Pegasus Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, May 6, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–09561 Filed 5–8–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Docket No. ATSDR–2019–0006]

Availability of Draft Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), within the Department of Health and Human Services (HHS), announces the opening of a docket to obtain comments on Draft Toxicological Profiles for Dinitrophenols, 2-Butanone, Mirex and Chlordecone, 1,2-Diphenylhydrazine, 1,2,3-Trichloropropane, Lead, and Endrin. ATSDR has updated these profiles based on availability of new health effects information since their initial release. On March 21, 2016 ATSDR announced that it was preparing to develop Draft Toxicological Profiles for public comment release (81 FR 15110), which include those profiles mentioned above. All toxicological profiles issued as ''Drafts for Public Comment'' represent the result of ATSDR's evidence-based evaluations to provide important toxicological information on priority hazardous substances. ATSDR is seeking public comments and additional information or reports on studies about the health effects of dinitrophenols, 2-butanone, mirex and chlordecone, 1,2-diphenylhydrazine, 1,2,3-trichloropropane, lead, and endrin for review and potential inclusion in the profiles. ATSDR considers key studies for these substances during the profile development process. This document solicits any relevant, additional studies. ATSDR will evaluate the quality and relevance of such data or studies for possible inclusion into the profile.

DATES: Written comments must be received on or before August 7, 2019.

ADDRESSES: You may submit comments, identified by docket number ATSDR–2019–0006, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Toxicology and Human Health Sciences, Agency for Toxic Substances and Disease Registry, 1600 Clifton Rd. NE, Mail Stop S102–1, Atlanta, GA, 30329–4027. Attn: Docket No. ATSDR–2019–0006.

Instructions: All submissions must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Ingber, Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences, 1600 Clifton Rd. NE, Mail Stop S102–1, Atlanta, GA, 30329–4027, Email: *ATSDRToxProfileFRNs@cdc.gov;* Phone: 1–800–232–4636.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, information, and data.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. ATSDR will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. ATSDR will carefully consider all comments submitted in preparation of the final Toxicological Profiles and may revise the profiles as appropriate.

Legislative Background

The Superfund Amendments and Reauthorization Act of 1986 (SARA) [42

U.S.C. 9601 *et seq.*] amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) [42 U.S.C. 9601 *et seq.*] by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) regarding hazardous substances that are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the priority list of hazardous substances [also called the Substance Priority List (SPL)]. This list identifies 275 hazardous substances that ATSDR and EPA have determined pose the most significant potential threat to human health. The SPL is available online at *www.atsdr.cdc.gov/spl.*

In addition, CERCLA provides ATSDR with the authority to prepare toxicological profiles for substances not found on the SPL. CERCLA authorizes ATSDR to establish and maintain an inventory of literature, research, and studies on the health effects of toxic substances (CERCLA Section 104(i)(1)(B); 42 U.S.C. 9604(i)(1)(B)); to respond to requests for health consultations (CERCLA Section 104(i)(4); 42 U.S.C. 9604(i)(4)); and to support the site-specific response actions conducted by the agency.

Availability

These Draft Toxicological Profiles will be available online at *http://www.atsdr.cdc.gov/ToxProfiles* and at *www.regulations.gov,* Docket No. ATSDR–2019–0006.

Pamela I. Protzel Berman,

Director, Office of Policy, Partnerships and Planning, Agency for Toxic Substances and Disease Registry.

[FR Doc. 2019–09538 Filed 5–8–19; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Statement of Organization, Functions, and Delegations of Authority

Part B of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), as last amended at 79 FR 80 FR 31389–31402, dated June 2, 2015, is amended to reflect the reorganization of the Administration on Community Living (ACL). This reorganization is being undertaken to improve efficiency and effectiveness of the organization; strengthen infrastructure; and improve the connections between the organization and its stakeholder, grantees and consumers at the national, state and local levels. It changes the Office of Elder Justice and Adult Protective Services functions to include carrying out the Long-Term Care Ombudsman functions established in Section 201(d)(1) of the Older Americans Act (OAA) and the Deputy Assistant Secretary for Aging will meet the responsibilities for the Director of the Office of Long-Term Care Ombudsman Programs. It renames the Independent Living Administration to the Office of Independent Living Programs, which will continue to serve as the Independent Living Administration as specified in Section 701A of the Rehabilitation Act, and renames the Administration on Intellectual and Developmental Disabilities to the Office of Intellectual and Developmental Disabilities Programs. The Commissioner for the Administration on Disabilities (AoD) will also serve as the Director of the Independent Living Admininstration. It retitles the Center for Integrated Programs to the Center for Innovation and Partnership, the Office of Consumer Access and Self-Determination to the Office of Network Advancement, and the Office of Integrated Care Innovations to the Office of Interagency Innovation. It retitles the National Institute of Disability, Independent Living and Rebabilitation Research's Office of Research Evaluation and Administration to the Office of Research Administration. It retitles the Office of Regional Operations to the Center for Regional Operations. The changes are as follows:

I. Under Section B10, Organization, delete Center for Integrated Programs (BD) and replace with Center for Innovation and Partnership (BD).

II. Delete Section B20, Functions, in its entirety and replace with the following:

B.20 Functions. ACL is the principal agency in the department designated to lead aging and disability programs. More specifically, the provisions of the Older Americans Act (OAA) of 1965 are carried out by its subcomponent, the Administration on Aging (AoA); the provisions of the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) of 2000 and Title VII of the Rehabilitation Act of 1973 are carried out by its subcomponent, the Administration on Disabilities (AoD); and the provisions of Title II of the Rehabilitation Act of 1973 are carried out by its subcomponent, the National Institute on Disability, Independent Living, and Rehabilitation Research. ACL also administers programs authorized under Title III and Title XXIX of the Public Health Service Act (PHSA), section 262 and 292 of the Help America Vote Act (HAVA), section 119 of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008, section 6021(d) of the Deficit Reduction Act (DRA) of 2005, section 4360 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, the Elder Justice Act (EJA) of 2010 (Subtitle B of Title XX of the Social Security Act), the Assistive Technology Act of 1998, and the Traumatic Brain Injury Program Reauthorization Act of 2018. In addition, ACL provides continuing support for the administration of the President's Committee for People with Intellectual Disabilities pursuant to E.O. 13652.

Specifically, ACL: Develops, recommends and issues regulations, policies, procedures, standards and guidelines to provide direction for the programs it administers. Approves or disapproves plans and funding applications for national programs providing community-based long-term services and supports. Administers programs for training, research, demonstration, evaluation and information dissemination. Administers programs related to advocacy, systems change and capacity building. Administers national centers for service development and provides technical assistance to states, tribal organizations, local communities and service providers. Serves as the lead federal agency for adult protective services.

Assists the Secretary in all matters pertaining to opportunities and challenges of persons with disabilities, older Americans, and Americans of all ages about their current and potential future need for information and access to long-term services and supports. Advocates for the needs of these constituencies in program planning and policy development within the department and in other federal agencies. Advises the Secretary, departmental components and other federal organizations on the characteristics, circumstances and needs of these populations and develops policies, plans and programs designed to promote their welfare.

The functions of the organizational units of ACL are described in detail in the succeeding chapters.

III. Under Section BA.20, Functions, delete Subsection 3. Office of Regional Operations (BAC) in its entirety.

IV. Delete Section B, Administration on Aging (BB), in its entirety and replace with the following:

B. Administration on Aging (BB)
BB.00 Mission
BB.10 Organization
BB.20 Functions

BB.00 Mission. The Administration on Aging (AoA) carries out programs operated under the OAA, Sections III, XXIX and 398 of the PHSA, and the EJA (Subtitle B of Title XX of the Social Security), including, but not limited to, those concerning the Elder Justice Coordinating Council and Adult Protective Services. The AoA helps elderly individuals maintain their dignity and independence in their homes and communities through comprehensive, coordinated, and cost

effective systems of long-term care, and livable communities across the United States.

BB.10 Organization. The AoA is headed by the Assistant Secretary for Aging, who is also the ACL Administrator. The Deputy Assistant Secretary for Aging supports the Assistant Secretary in overseeing the AoA. The Deputy Assistant Secretary for Aging also serves as the Director of the Office of Long-Term Care Ombudsman Programs consistent with Section 201 of the OAA. The AoA includes the following components:

Office of the Assistant Secretary for Aging (BBA)
Office of Supportive and Caregiver Services (BBB)
Office of Nutrition and Health Promotion Programs (BBC)
Office of Elder Justice and Adult Protective Services (BBD)
Office of American Indian, Alaskan Native, and Native Hawaiian Programs (BBE)

BB.20 Functions.

1. Office of the Assistant Secretary for Aging (BBA). The Office of the Assistant Secretary for Aging advises and supports the Administrator, the Secretary, and other elements of the department in serving as the visible and effective advocate for older people within the federal government. Provides leadership and expertise on program development, advocacy and initiatives affecting seniors and their caregivers. Plans and directs grant programs designed to provide planning, coordination and services to older Americans as authorized under the OAA and other legislation. Actively partners with other ACL subcomponents to develop coordinated programs and policies that jointly address the common needs of older adults and people with disabilities.

Performs functions under Title II of the OAA related to consultation with other federal agencies and the provision of information about aging services, programs and policies in order to enhance coordination and delivery. Supports the Administrator in implementing Section 203(1) of the OAA by advising and coordinating with the head of each department and agency and instrumentality of the federal government proposing or administering programs or services substantially related to the objectives of the OAA. Oversees the consultation process by which agency heads must consult with AoA before establishing programs or services related to the OAA. Plans and implements the process for the collaboration with AoA and all federal agencies executing programs and services related to the OAA.

Consults with and provides technical assistance to and education for State and Area Agencies on Aging, tribal grantees and local community service providers in the development of plans, goals, and system development activities. Ensures that statutory requirements, regulations, policies, and instructions are implemented for mandatory grant programs under Titles III, VI and VII of the OAA, and for the discretionary grant programs under Title II and Title IV of the OAA, as well as Sections XXIX and 398 of the PHSA and Title III of the EJA.

Provides oversight and leadership, technical assistance, and guidance to State and Area Agencies on Aging and community service providers. Implements the national programs of the OAA in coordination with the Regional Support Centers and ensures that clear and consistent guidance is given on program and policy directives. Issues substantive operating procedures to guide central office and regional staff in the conduct of their programmatic responsibilities.

Monitors, assists and evaluates state agencies and tribal organizations administering programs supported under the OAA and other authorizing legislation as directed. Participates in the review of state plans and recommend approval or disapproval. Participates in the review of applications for tribal programs and recommend approval or disapproval. Reviews grantee financial and program reports and provide technical assistance on fiscal operations. Oversees disaster assistance and reimbursement activities pursuant to Section 310 of the OAA.

At all levels, from national to the local service delivery level, develops methods and collaborations to articulate the problems and concerns of the elderly to organizations beyond the traditional network of agencies and works with these organizations to be more sensitive and responsive to age-related needs and issues. In coordination with the Office of External Affairs (OEA), develops strategies for increasing public awareness of the needs of older Americans and their families, and programs designed to address them.

2. Office of Supportive and Caregiver Services (BBB). The Office of Supportive and Caregiver Services serves as the focal point for the operation, administration, and assessment of the programs authorized under Titles III–B and III–E of the OAA and Sections XXIX and 398 of the PHSA, as well as activities under Titles II and IV of the OAA that are designed to provide information and referral services to seniors and caregivers, and to support technical assistance, outreach, and information dissemination that are culturally and linguistically appropriate in order to meet the needs of diverse populations of older individuals. In addition, the Office performs the functions under Title II of the OAA related to consultation with other federal agencies and the provision of information about supportive and caregiver services in order to enhance service coordination and delivery.

Implements Titles III–B and III–E of the OAA through the development of regulations, policies and guidance governing the development and enhancement by State and Area Agencies on Aging of comprehensive and coordinated systems of home- and community-based supportive and caregiver services. This includes implementing and enhancing systems for home- and community-based supportive services, the operation of multi-purpose senior centers, and caregiver support and assistance services.

In coordination with the Office of Nutrition and Health Promotion Programs, provides guidance regarding state plan processing and approval, the process and criteria for approval of states' Intrastate Funding Formulas for the allocation and targeting of resources within states, and implementation of the Interstate Funding Formula for distribution of Title III–B and III–E funds among states. Through the analysis of state plans, evaluation findings and other relevant material, identifies potential program and management issues and develops recommendations on possible solutions.

Fosters, oversees, and ensures accountability for the implementation of programs by states and Area Agencies on Aging through guidance and direction to regional staff regarding program reviews and system development and enhancements. Designs and provides training and technical assistance for program compliance, effectiveness, and enhancement. Provides technical and subject matter expertise targeted at enhancing the capabilities of State and Area Agencies on Aging and local communities to improve service delivery to older people.

Directs and assesses the development of state-administered home- and community-based long-term care systems providing supportive services for the elderly and caregivers. Initiates and encourages expansion of the capacities of home- and community-based supportive and caregiver services.

Implements programs under Sections XXIX and 398 of the PHSA, as well as activities under Titles II and IV of the OAA, through the development of demonstrations designed to test the efficacy of new and innovative models in improving the delivery and effectiveness of community-based supportive services for seniors and caregivers. Plans and develops discretionary grant program announcements. Evaluates demonstration grant and contract proposals and recommends approval/disapproval. Monitors progress, gives technical guidance, and evaluates program performance.

Promotes the coordination of innovation and demonstration activities with other national, field and local programs related to aging. Develops standards and identifies successful service and systems development strategies and best practice models for use by the aging network. Provides technical assistance to aging network partners in utilizing the findings from program demonstrations to inform policy and program development and enhance service delivery and coordination at the federal, state and local level.

3. Office of Nutrition and Health Promotion Programs (BBC). The Office of Nutrition and Health Promotion Programs serves as the focal point for the operation, administration, and assessment of the programs authorized under Titles III–C and III–D of the OAA and Title III of the PHSA, as well as activities under Titles II and IV of the OAA designed to promote healthy behaviors and improved health status for older people. In addition, the office performs the functions under Title II of the OAA related to consultation with other federal agencies and the provision of information about nutrition and preventive health services in order to enhance service coordination and delivery.

Implements Titles III–C and III–D of the OAA through the development of regulations, policies and guidance governing the development and enhancement by State and Area Agencies on Aging of comprehensive and coordinated systems of home- and community-based nutrition and preventive health services. Carries out the functions of the designated Nutrition Officer, who coordinates nutritional services under the OAA, develops the regulations and guidelines, and provides technical assistance regarding nutrition to State and Area Agencies on Aging, nutrition service providers, and other organizations. Serves as the liaison to the Department of Agriculture and other federal agencies and organizations related to nutrition policy and program issues.

In coordination with ACL's Office of Supportive and Caregiver Services, provides guidance regarding state plan processing and approval, the process and criteria for approval of states' Intrastate Funding Formulas for the allocation and targeting of resources within states, and implementation of the Interstate Funding Formula for distribution of Title III–C and III–D funds among states. Through the analysis of state plans, evaluation findings and other relevant material, identifies potential program and management issues and develops recommendations on possible solutions.

Fosters, oversees, and ensures accountability for the implementation of programs by states and Area Agencies on Aging through guidance and direction to regional staff regarding program reviews and system development and enhancements. Designs and provides training and technical assistance for program compliance, effectiveness, and enhancement. Provides technical and subject matter expertise targeted at enhancing the capabilities of State and Area Agencies on Aging and local communities to improve service delivery to older people.

Directs and assesses the development of State-administered home- and community-based long-term care systems providing nutrition and preventive health services for the elderly and caregivers. Initiates and encourages expansion of the capacities of home- and community-based nutrition and preventive health services to deliver comprehensive services to the elderly.

Implements programs under Title III of the PHSA, as well as other activities under Titles II and IV of the OAA, through the development of demonstrations designed to test the efficacy of new and innovative models in improving the delivery and effectiveness of community-based nutrition, health promotion, and evidenced-based disease prevention. Prepares the planning documents for and develops discretionary grant program announcements. Evaluates demonstration grant and contract proposals; and recommends approval/disapproval. Monitors progress, gives technical guidance to, and evaluates the performance of grantees and contractors.

Promotes the coordination of innovation and demonstration activities with other national, field and local programs related to aging. Develops standards and identifies successful service and systems development strategies and best practice models for use by the aging network. Provides technical assistance to aging network partners in utilizing the findings from program demonstrations to inform policy and program development and enhance service delivery and coordination at the federal, state and local level.

4. Office of Elder Justice and Adult Protective Services (BBD). The Office of Elder Justice and Adult Protective Services serves as the focal point for the operation, administration, and assessment of the elder abuse prevention, legal assistance development, and pension counseling programs under Titles II and VII of the OAA, and for Adult Protective Services and related activities carried out under the Elder Justice Act. The office also carries out the Long-Term Care Ombudsman functions established in Section 201(d)(1) of the OAA, serving as the advocate for older Americans in the development and implementation of federal policies and laws that may affect the health, safety, welfare, or rights of residents of long-term care facilities.

Reviews state plans to determine eligibility for funding under the OAA and recommends approval or disapproval. Implements Title VII in the field, through the provision of guidance and information, and the development and interpretation of Title VII program regulations and policy. Ensures the implementation of guidance and instructions concerning prevention of elder abuse, elder justice and legal assistance development programs. Provides guidance and leadership in the development of the pension counseling program and effective models for nationwide replication.

Fosters, coordinates, and ensures accountability for the implementation of Title VII by states through guidance and direction to regional staff regarding program reviews, and program and system development and enhancements. Designs and provides training and technical assistance for program compliance, effectiveness, and enhancement. Develops program plans and instructions for State and Area Agencies on Aging to improve the Title VII protection and representational programs funded under the OAA.

Implements demonstration activities under Titles II and IV of the OAA and the EJA designed to test the efficacy of new and innovative models in improving the delivery and effectiveness of elder rights activities. Prepares the planning documents for and develops discretionary grant program announcements. Evaluates demonstration grant and contract proposals and recommends approval/disapproval. Monitors progress, gives technical guidance, and evaluates program performance.

Promotes the coordination of innovation and demonstration activities with other national, field and local programs related to aging. Develops standards and identifies successful service and systems development strategies and best practice models for use by the aging network. Provides technical assistance to aging network partners in utilizing the findings from program demonstrations to inform policy and program development and enhance service delivery and coordination at the federal, state and local level.

Provides federal leadership for the development and implementation of comprehensive Adult Protective Services systems in order to provide a coordinated and seamless response for helping adult victims of abuse and to prevent abuse before it happens. Develops national Adult Protective Services data systems and standards, and provides technical assistance to states on using and interfacing with the system. Develops model Adult Protective Services program standards that help states improve the quality and consistency of programs. Advances a coordinated federal research strategy to fill the gaps in knowledge and develop evidence-based interventions to prevent, identify and report, and respond to elder abuse, neglect and exploitation. Provides support for the Elder Justice Coordinating Council.

Reviews federal legislation, regulations, and policies regarding long-term care ombudsman programs and makes recommendations to the Assistant Secretary for Aging. Coordinates the activities of ACL with other federal, state and local entities relating to long-term care ombudsman programs; prepares an annual report to Congress on the effectiveness of services provided by state long-term care ombudsman programs; and establishes standards for the training of state long-term care ombudsman staff. Coordinates the administration of the Long-Term Care Ombudsman Program and the National Ombudsman Resource Center to ensure alignment with agency initiatives related to elder justice and adult protective services. Makes recommendations to the Administrator regarding the operation of the National Ombudsman Resource Center, and the review and approval of the provisions in state plans submitted under section 307(a) of the OAA that relate to state long-term care ombudsman programs.

5. Office for American Indian, Alaskan Native, and Native Hawaiian Programs (BBE). The Office for American Indian, Alaskan Native, and Native Hawaiian Programs serves as advocate within the Department of Health and Human Services and with other departments and agencies of the federal government regarding all federal policies affecting older individuals who are Native Americans. Works with state, local and tribal governments providing leadership and coordination of activities, services and policies affecting American Indians, Alaskan Natives and Native Hawaiian elders. Promotes linkages among national Indian organizations, national aging organizations, and national provider organizations with the goal of enhancing the interests of and services to Native American elders. Recommends policies and priorities with respect to the development and operation of programs and activities relating to individuals who are older Native Americans. Coordinates activities among other federal departments and agencies to ensure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination.

Evaluates outreach under Title III and Title VI of the OAA and recommends necessary

action to improve service delivery, outreach, and coordination between Title III and Title VI services. Encourages and assists with the provision of information to older Native Americans to ensure a continuum of services. Develops research plans, conducts and arranges for research in the field of Native American aging; collects, analyzes, and disseminates information related to problems experienced by older Native Americans, including information on health status of older individuals who are Native Americans, elder abuse, in-home care, and problems unique to Native Americans. Develops, implements, and oversees the uniform data collection procedures for tribal and Native Hawaiian Organizations and implements and oversees the consultation requirements of Title II as they apply to Native American issues.

Serves as the AoA focal point for the administration of the programs authorized under Title VI and the Native American Organization provisions of Title VII–B of the OAA, including administering grants, cooperative agreements and contracts. Provides program guidance, policy direction, training, technical assistance, and monitoring of Title VI grantees. Oversees the development and operation of Resource Centers on Native American Elders under Title IV of the OAA, which gather information, perform research, provide for dissemination of results, and provide technical assistance and training to those who provide services to Native American elders. Arranges for and manages ongoing training and technical assistance for Title VI grantees. Coordinates additional training and technical assistance related to diversity and national minority aging organizations and coalitions with other projects managed by other components of the agency.

V. Delete Section C, Administration on Disabilities (BC), in its entirety and replace with the following:

C. Administration on Disabilities (BC)

BC.00 Mission
BC.10 Organization
BC.20 Functions

BC.00 Mission. The Administration on Disabilities (AoD) advises the Secretary, through the Administrator and Principal Deputy Administrator for Community Living, on matters relating to services and supports for individuals with disabilities and their families, and serves as a focal point in the department to support and encourage the provision of quality services and supports, and implementation of program and policy that benefit people with disabilities and their families. AoD supports states and communities in increasing the independence, productivity and community inclusion of individuals with disabilities; empowers individuals with disabilities to maximize opportunities for competitive integrated employment, economic self-sufficiency, independence and integration into society; promotes consumer control and self-advocacy; and ensures that the rights of individuals with disabilities are protected. Carries out programs operated under the DD Act, Title VII of the Rehabilitation Act, Section 262 and 292 of the HAVA, Section 5 of the Assistive Technology Act of 1998, Title III of the PHSA, and the Traumatic Brain Injury Program Reauthorization Act of 2018.

BC.10 Organization. AoD is headed by a Commissioner on Disabilities who also serves as the Director of the Independent Living Administration. This dual role reports directly to the Administrator and is appointed by the Secretary consistent with DD Act and Section 701A of the Rehabilitation Act. This role serves as a member of the Administrator's senior leadership team. AoD includes the following components:

Office of the Commissioner on Disabilities (BCA)
Office of Intellectual and Developmental Disability Programs (BCB)
President's Committee for People with Intellectual Disabilities (BCB1A)
Office of Independent Living Programs (BCC)
Office of Disability Services Innovation (BCD)

BC.20 Functions.

1. Office of the Commissioner on Disabilities (BCA). The Office of the Commissioner on Disabilities provides executive leadership and management strategies for all components of AoD. Advises the ACL Administrator on issues related to services and supports, civil rights and other matters affecting individuals with disabilities and their families. Plans, coordinates and controls AoD policy, planning and management activities which include the development of legislative proposals, regulations and policy issuances for AoD.

Provides executive direction to AoD's components and establishes goals and objectives for AoD programs. Assists states, through the design and implementation of state plans for independent living, developmental disabilities, and protection and advocacy programs, in making optimal use of federal, state, and local resources that maximize the independence, productivity, economic self-sufficiency and community inclusion and integration of individuals with disabilities and their families.

In concert with other components of ACL as well as other public, private, and volunteer sector partners, develops and implements research, demonstration and evaluation strategies for discretionary funding of activities designed to improve and enrich the lives of individuals with disabilities. Serves as a resource in the development of policies and programs to reduce or eliminate barriers experienced by individuals with disabilities through the identification of promising practices and dissemination of information. Supports and encourages programs or services and manages initiatives, involving the private and voluntary sectors that benefit individuals with disabilities and their families.

Initiates, executes and supports the development of interagency, intergovernmental and public-private sector agreements, committees, task forces, commissions or joint-funding efforts as appropriate. Actively partners with other ACL subcomponents to develop coordinated programs and policies that jointly address the common needs of older adults and people with disabilities. In coordination with OEA, develops strategies for increasing public awareness of the needs of individuals with disabilities, their families, and programs designed to address them.

2. Office of Intellectual and Developmental Disability Programs (BCB). The Office of Intellectual and Developmental Disability Programs is responsible for the coordination, oversight, management and evaluation of programs authorized by the DD Act. The office is responsible for the coordination, oversight, management and evaluation of the State Councils on Developmental Disabilities, and the University Centers for Excellence in Developmental Disabilities grant programs as authorized by the DD Act. Develops procedures and performance standards that ensure compliance with the DD Act and that improve the outcomes of the programs in increasing the independence, productivity and community inclusion of persons with developmental disabilities. Conducts routine and special analyses of state plans of State Councils on Developmental Disabilities, and five-year plans of the University Centers for Excellence in Developmental Disabilities, to ensure consistent application of program goals and objectives. Provides program development services, develops and initiates guidelines, policy issuances and actions with team participation by other components of AoD, ACL, HHS and other government agencies to fulfill the mission and goals of the DD Act, as amended.

Oversees activities that support state efforts to improve accessibility for individuals with the full range of disabilities to polling places and voting facilities. The office also provides general staff support for the President's Committee for People with Intellectual Disabilities (BCB1A) as established by Executive Order. Coordinates all meetings, provides advice and assistance in the areas of intellectual disabilities as requested by the President or the Secretary, and prepares and issues an annual report concerning intellectual disabilities and additional reports or recommendations as appropriate.

3. Office of Independent Living Programs (BCC). The Office of Independent Living Programs, which serves as the Independent Living Administration as specified in Section 701A of the Rehabilitation Act, aims to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities while promoting the independent living philosophy of consumer control, self-help and self-advocacy, development of peer relationships and peer role models, and equal access for individuals with significant disabilities to all aspects of society. The office administers grants to support independent living programs that offer financial assistance to provide expanded and improved independent living services. Develops and supports statewide networks of centers for independent living and improves working relationships among state independent living rehabilitation programs, centers for independent living, statewide Independent Living Councils, Rehabilitation Act programs outside of Title VII, and other relevant federal and non-federal programs. Funds grants for consumer-controlled, community-

based, cross-disability, nonresidential, private nonprofit agencies that are designed and operated within a local community by individuals with disabilities and provide an array of independent living services, such as community planning and decision making; school-based peer counseling, transition services, role modeling, and skills training. Manages other grants, contracts or cooperative agreements to provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living. Ensures compliance with the Rehabilitation Act, which establishes a set of standards and assurances that centers for independent living must meet and requires development and publication of indicators of minimum compliance with the standards.

In addition, participates in the development and dissemination of policy guidance, regulations, and program guidance related to Independent Living Programs. In collaboration with the Center for Policy and Evaluation (CPE), develops program performance measures, which are used to evaluate and monitor grantees. Provides program development services, develops and initiates guidelines, policy issuances and actions with team participation by other components of ACL, HHS and other government agencies to fulfill the purpose and goals of Title VII of the Rehabilitation Act, as amended.

4. Office of Disability Services Innovation (BCD). The Office of Disability Services Innovation works across disability populations, programs and resources to advance education and technical assistance while addressing the most prevailing issues and opportunities for Americans with disabilities. The office administers the Protection and Advocacy programs as authorized by the DD Act, Section 292 of the HAVA, Section 5 of the Assistive Technology Act, and the Traumatic Brain Injury Program Reauthorization Act of 2018, that together work to protect individuals with disabilities in every state and territory by empowering them to fight for personal and civil rights, providing legal support to traditionally unserved or underserved populations to help them navigate the legal system to achieve resolution and encourage systems change, and advocating on their behalf to help ensure they are able to exercise their rights to make choices, contribute to society, and live independently. This includes administering a training and technical assistance grant program under the HAVA that provides technical assistance to Protection and Advocacy systems in their mission to promote the full participation in the electoral process for individuals with the full range of disabilities, including registering to vote, casting vote, and accessing polling places.

The office is also responsible for the coordination, oversight, management and evaluation of the Projects of National Significance program authorized by the DD Act. Ensures the dissemination of grantee results, including project results and information produced by grantees, in coordination with the Office of Intellectual and Developmental Disability Programs, the Office of Independent Living Programs, and the Office of the Commissioner on Disabilities. Manages cross-cutting research, demonstration and evaluation initiatives consistent with the purposes of the DD Act and Rehabilitation Act, with other components of ACL, HHS and other government agencies to promote and integrate the grant programs into cross-agency and cross-disability efforts. Coordinates information sharing and other activities related to national program trends and studies, reviews and analyzes other federal programs providing services applicable to persons with disabilities for the purpose of integrating and coordinating program efforts.

The office also administers grants to states to expand and improve capability for individuals with traumatic brain injury and their families have better access to comprehensive and coordinated services, to encourage systems change, and to address barriers to needed services as authorized by the Traumatic Brain Injury Program Reauthorization Act of 2018. The office also carries out activities under Title III of the PHSA that promote the health and well-being of people living with paralysis and limb loss. Supports their families and caregivers by providing comprehensive information and referral services that assist individuals to remain at home and in the community.

VI. Delete Section D, Center for Integrated Programs (BD), in its entirety and replace with the following:

D. Center for Innovation and Partnership (BD):

BD.00 Mission
BD.10 Organization
BD.20 Functions

BD.00 Mission. The Center for Innovation and Partnership (CIP) serves as the locus within ACL for the administration of programs and initiatives that serve both older adults and persons with disabilities, including consumer access and protection programs. Manages programs and initiatives that promote the use of self-directed and person-centered service models and advance the development of health and long-term care services and support systems that are responsive to the needs and preferences of older adults, persons with disabilities, caregivers, and families. Carries out programs authorized under Titles II and IV of the OAA, Section 119 of the MIPPA, Section 4360 of the OBRA of 1990, and Section 4 of the Assistive Technology Act that focus on helping states make their health care and long-term service and support systems more person-centered, improve access to health care and assistive technology services, and promote the values of self-determination, full participation in community, integration and independence. Also implements initiatives at the national, state and local level to strengthen the capacity of ACL's network of state and community-based organizations to play a meaningful role in the transformation of our nation's health and long-term service and support systems.

BD.10 Organization. CIP is headed by a Deputy Administrator, who reports directly to the ACL Administrator. The Center includes the following components:

Office of the Deputy Administrator for Innovation and Partnership (BDA)
Office of Healthcare Information and Counseling (BDB)
Office of Network Advancement (BDC)
Office of Interagency Innovation (BDD)

BD.20 Functions.

1. Office of the Deputy Administrator for Innovation and Partnership (BDA). The Office of the Deputy Administrator for Innovation and Partnership supports the ACL Administrator and the Principal Deputy Administrator in advancing programmatic and systemic changes to make state health and long-term services and supports systems more person-centered and responsive to the needs and preferences of older Americans, people with disabilities, their families, and caregivers. Works with other ACL components, federal partners and key external stakeholder groups to engage the multiple state agencies involved in long-term services and supports in developing high performing, consumer-oriented, and responsive systems of care for all populations.

Provides leadership and strategic direction to guide the administration of ACL programs that assist consumers in understanding their health care and long-term services and supports options, improve access to services including assistive technologies, and prevent fraud and abuse. Consults with, provides technical assistance to, and supports the education of states and local community service providers in the development of plans, goals, and system development activities. Supports the coordination of programs within HHS and with federal, state, community and private-sector partners.

Works closely with AoA, AoD, NIDILRR and other ACL components to facilitate the coordination across ACL of multiple consumer protection and family support programs and various systems change and network capacity initiatives to fully optimize the potential synergies of these investments across ACL. Uses data and learnings from the programs administered to inform the work of other ACL components and ACL's policy priorities and provides guidance to the Regional Support Centers to ensure clear and consistent direction to the states on relevant program implementation issues.

2. Office of Healthcare Information and Counseling (BDB). The Office of Healthcare Information and Counseling oversees the operation and administration of the State Health Insurance Assistance Program, authorized under the section 4360 of the OBRA of 1990, and the Senior Medicare Patrol Program, authorized under Title IV of the OAA, that help Medicare and Medicaid beneficiaries as well as coming-of-agers navigate the complexities of health and long-term care systems and educate them on how to prevent fraud, waste, and abuse. The office also manages related activities funded under section 119 of the MIPPA that focus on outreach to help beneficiaries understand and apply for their Medicare benefits including the Low Income Subsidy program (LIS), Medicare Savings Program (MSP), and Medicare Prescription Drug Coverage (Part D).

Coordinates, implements, monitors, and promotes efforts to provide consumer information and education designed to increase access to, and detect, prevent and report error, fraud and abuse in, the Medicare and Medicaid programs. Provides in-depth expertise, information, leadership and technical assistance to assist the State Health Insurance Assistance Program and Senior Medicare Patrol networks, and serves as a reliable clearinghouse of information for older persons, people with disabilities, and their families and caregivers.

Develops funding opportunities and monitors grants to ensure all necessary activities are completed. Manages the full spectrum of contract requirements including identifying contractual needs, developing statements of work and necessary planning documents, and ensuring that contractors are completing assigned tasks. Ensures that grantees and their volunteers have the necessary information and training to carry out program functions. Develops and refines the performance management systems and provides specialized guidance and technical assistance to help grantees improve their performance. Coordinates with the Centers for Medicare & Medicaid Services (CMS) and other national partnerships to advance program objectives.

Administers, in partnership with the CMS, the Duals Demonstration Ombudsman Technical Assistance Program which supports grantees serving beneficiaries of state demonstrations to integrate care for Medicare-Medicaid enrollees associated with the CMS Financial Alignment Initiative. Ensures that grantees and their volunteers have the necessary information and training to carry out program functions. Coordinates with CMS and the state grantees in developing and refining performance management systems and provides specialized guidance and technical assistance to help grantees improve their performance. Analyzes program reports, including consumer feedback and complaints, and makes recommendations to CMS for improving the Ombudsman Program and the Financial Alignment Initiative.

3. Office of Network Advancement (BDC). The Office of Network Advancement oversees a variety of initiatives to ensure that the interests and needs of older adults and people with disabilities, as well as the state and local organizations that serve these populations, are adequately reflected in the transformations occurring in our nation's health and long-term services and support systems as those systems shift toward the use of managed care, Health Information Technology (IT), and other models and approaches to better integrate the delivery of health and long-term services and supports as well as to make those systems more person-centered. These initiatives involve partnerships with other federal agencies and external stakeholders at the national, state, and local level and the management and execution of technical assistance activities, including the identification and dissemination of best practices and program models.

Serves as the focal point for the administration the Aging and Disability Resource Center program authorized under Title II of the OAA, providing leadership and a central strategic focus for ACL's efforts to work with states and communities to develop single entry point/no wrong door systems of access to long-term services and supports for seniors, persons with disabilities, and their families and caregivers, in coordination with CMS and other Federal agencies. Leads ACL's Business Acumen work to help community-based organizations that serve older adults and persons with disabilities to build their business capacity and align their service capabilities in order to work effectively with integrated healthcare entities (*e.g.,* accountable care organizations, health plans, managed care organizations, hospitals, health systems, etc.) to provide community-based long-term services and supports and/or evidence-based preventive health programs and services. Works with other ACL components to coordinate the various business acumen and related activities across ACL, and oversees the provision of the business acumen technical assistance that is delivered through a variety of methods and techniques to state level and community-based aging and disability agencies and organizations. Develops partnerships with external stakeholders at the national, state and local level in both the public and private sectors, including private foundations, to enhance and complement ACL's work in this area.

Works with the HHS Office of the National Coordinator for Health Information Technology, CMS, and other internal and external stakeholders on Health IT initiatives that have a potential impact on older adults and persons with disabilities and the state and local agencies and organizations that serve these populations to ensure that the needs and interests of these populations and organizations are reflected in the Health IT initiatives that are shaping the future of our nation's health and long-term services and support systems. Works with CPE and other ACL components to track policy and program trends and emerging issues related to integrated care to inform ACL's ongoing program and policy development work as the transformations in health and long-terms services and supports continue to evolve.

4. Office of Interagency Innovation (BDD). The Office of Interagency Innovation plans and directs the implementation of programs designed to enhance consumer access to long-term services and supports, including integrated systems of services and person-centered programs and systems at the state and local level that support community living. Supports state and community efforts to improve the provision of assistive technology for individuals with disabilities of all ages through comprehensive, statewide programs that are consumer responsive. Serves as the focal point for the administration of the Assistive Technology state programs authorized under Section 4 of the Assistive Technology Act, the Veteran-Directed Home and Community-Based Services program, and other activities as deemed appropriate.

Promotes initiatives to expand access to services and the development of more responsive service systems, including person-centered planning and self-directed service models. Implements partnerships with external stakeholder organizations to enhance access to integrated systems of services that support both older Americans and persons of all ages with disabilities. Coordinates with the Department of Veterans Affairs on the development and implementation of their long term services and support programs, including the Veteran-Directed Home and Community-Based Services program and caregiver support programs. Provides technical assistance and support services to programs funded under the Assistive Technology Act to make assistive technology devices and services more available and accessible to individuals with disabilities and their families. Works with NIDILRR and other ACL components to facilitate and accelerate the translation of relevant research findings into practice nationwide. Supports the development and maintenance of a database of technical assistance resources, best practices and model programs for use by federal, state and local agencies and organizations involved in advancing system changes that make long-term services and support systems more person-centered and more responsive to the needs and preferences of older adults and persons with disabilities. Partners with other federal departments on innovative activities, policies and technical assistance, including the Department of Transportation, Department of Housing and Urban Development, Department of Agriculture, among others.

Develops funding opportunities and monitors grants to ensure all necessary activities are completed. Manages the full spectrum of contract requirements including identifying contractual needs, developing statements of work and necessary planning documents, and ensuring that contractors are completing assigned tasks. Ensures that grantees have the necessary information and training to carry out program functions. Develops and refines performance management systems and provides specialized guidance and technical assistance to help grantees improve their performance.

VII. Delete Section G, National Institute on Disability, Independent Living, and Rehabilitation Research (BG), in its entirety and replace with the following:

G. National Institute on Disability, Independent Living, and Rehabilitation Research (BG):

BG.00 Mission
BG.10 Organization
BG.20 Functions

BG.00 Mission. The National Institute on Disability, Independent Living and Rehabilitation Research (NIDILRR) administers research programs authorized under Sections 202 and 204 of the Rehabilitation Act of 1973, NIDILRR supports the generation of new knowledge and promotes the effective use of this knowledge to: improve the abilities of individuals with disabilities to participate in community activities of their choice; and, enhance society's capacity to provide opportunities

and accommodations for these individuals. NIDILRR fulfills its mission through research, development, and dissemination and related activities designed to contribute to community living and participation, employment, and health and function of individuals of all ages with all types and degrees of disability, including low-incidence disability.

BG.10 Organization. NIDILRR is headed by a Deputy Administrator, who serves as the Director as defined in Section 202 of the Rehabilitation Act, and as a member of the Administrator's senior leadership team. NIDILRR includes the following components:

Office of the Director of Disability, Independent Living, and Rehabilitation Research (BGA)
Disability, Independent Living, and Rehabilitation Research Advisory Council (BGA1)
Office of Research Administration (BGB)
Office of Research Sciences (BGC)

BG.20 Functions.

1. Office of the Deputy Administrator of Disability, Independent Living, and Rehabilitation Research (BGA). The Office of the Deputy Administrator for Disability, Independent Living and Rehabilitation Research provides executive leadership and management strategies for all components of NIDILRR. The office, which includes a Deputy Director, manages all internal and external activities of the NIDILRR, including the research, dissemination, and public information programs, research evaluation, and provides direction and guidance to NIDILLR's scientific peer review. Prepares and issues an annual report and coordinates with OEA and other agency components to ensure that the results of research are disseminated to, and utilized by service providers, people with disabilities and their families, and the general public.

Responsible for the coordination and management of research and research capacity building programs. Promotes the widespread dissemination of research results and other new knowledge both nationally and internationally to individuals with disabilities, families, service providers, researchers, and others through appropriate and accessible media, training, and technical assistance. Sponsors research that can be used to promote the use of appropriate assistive technology and the development of coordinated systems of technology services. Provides general staff support for the Disability, Independent Living, and Rehabilitation Research Advisory Council. Coordinates all meetings, provides advice and assistance, and prepares and issues reports or recommendations as appropriate. Chairs and supports the Interagency Committee on Disability Research (ICDR), authorized by Section 203 of the Rehabilitation Act, and promotes the coordination of disability independent living, and research throughout the federal Government. The ICDR is responsible for identifying, assessing, and seeking to coordinate and promote cooperation among all federal program activities, projects, and plans with respect to the conduct of research related to rehabilitation of individuals with disabilities; facilitating the compilation of information about the status of disability, independent living and rehabilitation research sponsored by federal agencies. Coordinates its activities with other federal agencies and participates in joint-funding of rehabilitation research and related activities, in collaboration with the ICDR. Prepares and submits to Congress a long-range plan for rehabilitation research and provides necessary data and information required by the National Council on Disability. The ICDR is also responsible for preparing a comprehensive government-wide strategic plan for disability, independent living and rehabilitation research and ensuring accountability for achievement of measurable goals, objectives and timetables.

2. Office of Research Administration (BGB). The Office of Research Administration supports the administration of NIDILRR's grants and contracts portfolio. The office also coordinates NIDILRR's program evaluation activities and collaborates with the Office of Research Sciences in program planning and priority setting. Coordinates with the Office of Research Sciences staff in the preparation of all contract packages, development of requirements and performance work statements. Conducts routine contract management activities to include completion of administrative and fiscal tasks required throughout the contract lifecycle. Maintains and monitors annual grant forecasts and schedules, and provides grants administration support for NIDILRR including packaging grant announcements and application kits.

Makes recommendations to the Deputy Administrator of NIDILRR regarding allocation of NIDILRR program funds for current and future budget years. Coordinates and collaborates with Office of Research Sciences program staff in the preparation of the annual spending plan and facilitate the implementation of the plan to ensure compliance with established departmental guidance. Provides administrative support in the monitoring of grants and cooperative agreements, and facilitates the administrative execution of interagency agreements.

Administers NIDILRR evaluation activities to improve the effectiveness of NIDILRR's research activities. This includes collaborating with NIDILRR's senior management to define and facilitate the conduct of analyses of program and budget data as well as focused, special program evaluation activities. In its evaluation function, it coordinates with CPE to prepare planning and evaluation documents required by ACL, HHS, OMB and Congress.

3. Office of Research Sciences (BGC). The Office of Research Sciences is responsible for national and international programs of research, training, and knowledge translation. Develops and manages a comprehensive program of grants, cooperative agreements, and contracts that address all of NIDILRR's research, capacity building, and knowledge translation activities. Sponsors research on, and development of programs and interventions involving technological systems, techniques and devices to overcome environmental barriers, and enable persons with disabilities to maximize community living and participation, employment, and their health and functional abilities. Responsible for providing research-based knowledge to industry to facilitate development, marketing, and distribution of aids and devices that can be used by people with disabilities. Determines criteria and standards and sets priorities for all NIDILRR research, training, and evaluation activities in the areas of community living and participation, employment, and health and function.

Plans, develops, implements, and manages a comprehensive national and international program of research, training, and knowledge translation in specific program areas. Identifies trends and needs and recommends research and development priorities to the leadership of NIDILRR. Manages a comprehensive scientific peer review of all grant applications and conducts pre-award site visits, as required by statute. Recommends new and continuation awards, as well as award terminations. Performs program oversight and monitoring of the progress of grants and contracts. Collaborates with ACL senior leaders, the CPE, and the Center for Management and Budget in developing and publishing regulatory documents, including annual announcements of priorities and grant application packages.

Enhances the public understanding of the barriers to and facilitators of optimal outcomes for individuals with disabilities through the dissemination of research findings and other data, to include statistical data on disability status and outcomes, as evidenced by the annual publication of the Annual Compendium of Disability Statistics, distributed widely each year. Coordinates with OEA as well as ACL subcomponents to plan, develop, and administer knowledge translation, research utilization, public information, public education, and publications which address NIDILRR research activities and findings; and manages a comprehensive program to disseminate NIDILRR research findings through accessible media to a range of target audiences. Provides research-based information from grantees to the ICDR, the National Council on Disability, and other agencies and private organizations serving individuals with disabilities. Sponsors studies to determine innovative techniques and systems for the dissemination and utilization of rehabilitation research findings.

VIII. Insert Section H, Center for Regional Operations (BH), as follows:

H. Center for Regional Operations (BH):

BH.00 Mission
BH.10 Organization
BH.20 Functions

BH.00 Mission. The Center for Regional Operations (CRO) serves as the liaison, advocate and representative for the agency regionally across the United States for all of ACLs programs areas. This includes working with and connecting stakeholders to other HHS divisions and federal agencies to help advance the development of programs and activities serving older adults, persons with disabilities and their caregivers, and developing new partnerships with and

coordinating with public and private organizations in the planning and development of comprehensive and coordinated services and supports.

BG.10 Organization. CRO is directed by a Deputy Administrator and includes a coordinating central office and Regional Support Centers around the country. The Center for Regional Operations includes the following components: Office of the Deputy Administrator for Regional Operations (BHA) Regional Support Centers (BHB1–BHB10)

BG.20 Functions.

1. Office of the Deputy Administrator of Regional Operations (BHA). The Office of the Deputy Administrator of Regional Operations directs and coordinates the work of all ACL regional operations and activities and supervises the ten Regional Administrators who each serve as a liaison to their assigned region.

The Regional Support Centers (BHB1–BHB10) serve as the focal point for the coordination of ACL programs within their designated HHS region, and support state and local efforts to improve community living for older adults and persons with disabilities. Represent the agency within the region, providing information for, and helping to advance the development of, national programs serving older adults and persons with disabilities. Serve as advocates for ACL stakeholders to other federal agencies in their geographic jurisdictions; advise, consult and cooperate with each federal agency proposing or administering programs or services that affect ACL stakeholders; coordinate and assist public (including federal, state, tribal and local agencies) and private organizations in the planning and development of comprehensive and coordinated services; and conduct education of officials and the broader community to ensure understanding of the need for community-based services and supports for older adults and people with disabilities.

Advise the Deputy Administrator on problems and progress of programs; evaluate the effectiveness of programs and services in the regions and recommend changes that would improve program operations and enhance effectiveness; and provide guidance to agencies and grantees in applications of policy to specific operational issues requiring resolution. Facilitate interagency cooperation at the federal, regional, state and tribal levels to enhance resources and assistance available to older adults and persons with disabilities. Disseminate and provide technical assistance regarding program guidelines and developments to state agencies, tribal organizations, and local community service providers.

IX. *Delegations of Authority:* All delegations and re-delegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

X. *Funds, Personnel and Equipment:* Transfer of functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies and other resources.

This reorganization will be effective upon date of signature.

Dated: May 2, 2019.

Alex M. Azar II,

Secretary.

[FR Doc. 2019–09444 Filed 5–8–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4525]

Clinical Lactation Studies: Considerations for Study Design; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Clinical Lactation Studies: Considerations for Study Design.'' This guidance reflects FDA's current recommendations to sponsors regarding lactation studies during drug development. This guidance provides recommendations to facilitate the conduct of lactation studies. Such studies can inform breastfeeding with drug use recommendations included in the *Lactation* subsection of labeling. The recommendations in this guidance also reflect discussions from the 2007 Pediatric Advisory Committee meeting and the 2016 Lactation Workshop, which considered how data from clinical lactation studies can inform the safety of a drug when used during lactation. This guidance replaces the draft guidance for industry entitled ''Clinical Lactation Studies—Study Design, Data Analysis, and Recommendations for Labeling'' issued February 2005.

DATES: Submit either electronic or written comments on the draft guidance by July 8, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–4525 for ''Clinical Lactation Studies: Considerations for Study Design.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the

claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Jian Wang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 22, Rm 5309, Silver Spring, MD 20993–0002, 301–796–3846; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Clinical Lactation Studies: Considerations for Study Design.'' This guidance reflects FDA's current recommendations regarding lactation studies during drug development. This guidance provides recommendations to facilitate the conduct of lactation studies. Such studies can inform breastfeeding with drug use recommendations included in the *Lactation* subsection of labeling. The recommendations in this guidance also reflect discussions at the 2007 Pediatric Advisory Committee meeting (see *https://wayback.archive-it.org/7993/20170403222238/https://www.fda.gov/ohrms/dockets/ac/oc07.htm#pac*) and the 2016 Lactation Workshop (see *https://www.fda.gov/Drugs/NewsEvents/ucm486761.htm*), which considered how data from clinical lactation studies can inform the safety of a drug when used during lactation. However, this guidance does not address specific lactation labeling recommendations because these topics are addressed in 21 CFR 201.57(c)(9)(ii) and the draft guidance for industry ''Pregnancy, Lactation, and Reproductive Potential: Labeling for Human Prescription Drug and Biological Products—Content and Format'' (available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm425398.pdf*). This guidance replaces the draft guidance for industry entitled ''Clinical Lactation Studies—Study Design, Data Analysis, and Recommendations for Labeling'' issued February 8, 2005 (70 FR 6697).

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Clinical Lactation Studies: Considerations for Study Design.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 314, including the submission of labeling under §§ 314.50(e)(2)(ii) and 314.50(l)(1)(i), has been approved under OMB control number 0910–0001. The submission of prescription drug labeling under §§ 201.56 and 201.57 has been approved under OMB control number 0910–0572. The collection of information in 21 CFR part 312 has been approved under OMB control number 0910–0014. The collections of information in 21 CFR parts 50 and 56 (Protection of Human Subjects: Informed Consent; Institutional Review Boards) have been approved under OMB control number 0910–0755.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: May 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–09528 Filed 5–8–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–1263]

Submitting Documents Using Real-World Data and Real-World Evidence to the Food and Drug Administration for Drugs and Biologics; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Submitting Documents Using Real-World Data and Real-World Evidence to FDA for Drugs and Biologics.'' This draft guidance is intended to encourage sponsors and applicants who are using real-world data (RWD) to generate real-world evidence (RWE) as part of their regulatory submissions to provide certain information to FDA so that FDA can internally track the submissions. The purpose of this guidance is to provide instructions on how to document that a submission includes RWE.

DATES: Submit either electronic or written comments on the draft guidance by July 8, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal*: *https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–1263 for ''Submitting Documents Using Real-World Data and Real-World Evidence to FDA for Drugs and Biologics.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Lauren Milner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6323, Silver Spring, MD 20993–0002, 301–796–5114; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Submitting Documents Using Real-World Data and Real-World Evidence to FDA for Drugs and Biologics.'' The availability of RWD and evolving analytic techniques to generate RWE has created interest within the research and medical communities to use RWD/RWE to enhance clinical research and support regulatory decision making. Exploring the potential for RWE to inform regulatory decisions is mandated by the 21st Century Cures Act (Cures Act) (Pub. L. 114–255). Section 3022 of the Cures Act requires FDA to establish a program to evaluate the potential use of RWE to help to support the approval of a new indication for a drug approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) and to help to support or satisfy postapproval study requirements.

To inform FDA's RWE program under the Cures Act and to help FDA understand the scope and use of RWE submitted to support regulatory decisions regarding safety and/or effectiveness, the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research intend to identify and track certain types of submissions using RWE under an investigational new drug application (IND), a new drug application (NDA), or a biologics license application (BLA). The draft guidance provides instructions on how to document that the submission uses RWE, including a sample presentation to include in a cover letter.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Submitting Documents Using Real-World Data and Real-World Evidence to FDA for Drugs and Biologics.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This

guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: May 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–09529 Filed 5–8–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1814]

Preparation of Food Contact Notifications for Food Contact Substances in Contact With Infant Formula and/or Human Milk; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.'' This guidance is intended to provide industry with our current thinking on how to prepare a food contact notification (FCN) submission for our review and evaluation of the safety of food contact substances (FCSs) used in contact with infant formula and/or human milk.

DATES: The announcement of the guidance is published in the **Federal Register** on May 9, 2019.

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–2016–D–1814 for ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to Division of Food Contact Notifications/Office of Food Additive Safety, 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: Vanee Komolprasert, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1217.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.'' We are issuing the 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.

Section 409 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 348) establishes an FCN process as the primary method by which we regulate food additives that are FCSs. As defined in section 409(h)(6) of the FD&C Act, the term ''food contact substance'' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.

Pursuant to section 409(h) of the FD&C Act and FDA's implementing regulations [1], FCN submissions must contain a comprehensive discussion of the basis for the manufacturer's or supplier's determination that the use of the FCS that is the subject of the notification is safe. This guidance contains recommendations regarding how the scientific information in FCNs for infant food use should demonstrate that the FCS is safe for the specific intended use in contact with infant food. For purposes of the guidance, infant food is limited to infant formula and/or human milk, and this guidance focuses on infants 0–6 months in age. The guidance discusses our recommendations and provides information for: A. *Chemistry Recommendations,* including Migration Testing and Exposure Estimation; B. *Toxicology Recommendations* including Exposure Based Testing Tiers, Minimum Testing Recommendations, and Age Dependent Cancer Risk Analysis of Carcinogenic Constituents; and C. *Administrative Recommendations* including Acknowledgment of an FCN, Non-acceptance of an FCN, Final Letter, Inventory of Effective FCNs, and Premarket Notification Consultations (PNCs).

In the **Federal Register** of December 9, 2016 (81 FR 89110), we announced a draft guidance for industry and gave interested parties an opportunity to submit comments by February 7, 2017, for us to consider before beginning work on the final version of the guidance. We received a few comments on the draft guidance and have modified the final guidance where appropriate. Changes to the guidance include modifying the Exposure Based Testing Tiers 2 and 3 to be consistent with FDA's ''Guidance for Industry: Preparation of Food Contact Notifications for Food Contact Substances: Toxicology Recommendations. Specifically, the upper bound of Tier 2 now includes an exposure equal to or less than 2.5 micrograms per kilogram of body weight per day (µg/kg bw/day) and lower bound of Tier 3 is now greater than 2.5 µg/kg bw/day. The guidance announced in this notice finalizes the draft guidance dated December 2016.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in this guidance was approved under OMB control number 0910–0495.

III. 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: May 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–09530 Filed 5–8–19; 8:45 am]

BILLING CODE 4164–01–P

[1] 21 CFR 170.101(a) (*https://www.ecfr.gov/cgi-bin/text-idx?SID=56face021b3741c1fba7e997df53d3de&mc=true&node=pt21.3.170&rgn=div5#se21.3.170_1101*).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4693]

Postapproval Pregnancy Safety Studies; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Postapproval Pregnancy Safety Studies.'' When finalized, the purpose of this guidance will be to provide sponsors and investigators with recommendations on how to design investigations to assess the outcomes of pregnancies in women exposed to drugs and biological products regulated by FDA (*i.e.,* pregnancy safety studies). This draft guidance, when finalized, will represent the current thinking of FDA on postapproval pregnancy safety studies. This draft guidance is intended to help industry develop more comprehensive and scientifically sound studies to assess the safety of drug and biological products during pregnancy in the postmarketing setting. The previous guidance for industry entitled ''Establishing Pregnancy Exposure Registries,'' issued on August 23, 2002, has been withdrawn.

DATES: Submit either electronic or written comments on the draft guidance by July 8, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–4693 for ''Postapproval Pregnancy Safety Studies; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''This Document Contains Confidential Information.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Denise Johnson-Lyles, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6469, Silver Spring, MD 20993, 301–796–6169; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Postapproval Pregnancy Safety Studies.'' When finalized, the purpose of this guidance will be to provide sponsors and investigators with recommendations on how to design investigations to assess the outcomes of pregnancies in women exposed to drugs and biological products regulated by FDA. Currently, collection of safety data in drugs and biological products used during pregnancy usually occurs after approval. Pregnancy registries have been used to collect these data. However, in the years since FDA first issued guidance on this topic, scientific methodologies for assessing safety in pregnancy in the postmarketing setting have evolved.

FDA held a 2-day public meeting in 2014 during which stakeholders, including birth defect experts from academia, industry, professional organizations, and patient groups, discussed the use of pregnancy registries and other epidemiologic studies to collect postmarketing safety data on the use of drug and biological products during pregnancy. In addition, FDA conducted reviews of pregnancy registries, including assessment of pregnancy registry methods and enrollment.

This draft guidance, when finalized, will represent the current thinking of FDA on postapproval pregnancy safety studies. Based on FDA reviews and the 2014 public meeting, the revisions in this draft guidance reflect the most up-to-date recommendations for protocol specifications and scientific standards for pregnancy safety studies and include a broader scope of methods for collection of safety information for drug and biological products used during pregnancy, including pharmacovigilance activities and other postapproval safety studies. The previous guidance for industry entitled ''Establishing Pregnancy Exposure Registries,'' issued on August 23, 2002, has been withdrawn.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on postapproval pregnancy safety studies. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information 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 have been approved under OMB control number 0910–0001 as follows: (1) 21 CFR 314.50(d) for submitting technical sections of the content and format of a new drug application for pregnancy registry design considerations; (2) 21 CFR 314.80(c)(2)(iii) for submitting postmarketing safety reports; and (3) 21 CFR 314.81(b)(2)(vii) for submitting postmarketing study updates in annual reports. The collections of information in 21 CFR 312.23(a)(6) for submitting pregnancy registry design considerations in a protocol for investigational new drug applications have been approved under OMB control number 0910–0014. The collections of

information in 21 CFR 310.305(c) and 21 CFR 314.80(c)(2)(iii) and (e) for submitting postmarketing safety reports have been approved under OMB control number 0910–0230. The collections of information for submitting postmarketing safety reports under MedWatch have been approved under OMB control number 0910–0291. The collections of information in 21 CFR 201.56 and 201.57, including 21 CFR 201.57(c)(9)(i)(A) for preparing human prescription drug labeling to include pregnancy registries and relevant contact information under the subheading Pregnancy Exposure Registry have been approved under OMB control number 0910–0572. The collections of information contained in the guidance for clinical trial sponsors entitled ''Establishment and Operation of Clinical Trial Data Monitoring Committees'' (available at *https://www.fda.gov/downloads/RegulatoryInformation/Guidances/ucm127073.pdf*) have been approved under OMB control number 0910–0581. The collections of information in the ''Content and Format of Labeling for Human Prescription Drug and Biological Products; Requirements for Pregnancy and Lactation Labeling'' final rule have been approved under OMB control number 0910–0624. The collections of information in 21 CFR 50.25 for the elements of informed consent have been approved under OMB control number 0910–0755.

III. Electronic Access

Persons with access to the internet may obtain the document at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: May 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–09527 Filed 5–8–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Enrollment and Re-Certification of Entities in the 340B Drug Pricing Program, OMB Number 0915–0327—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Before submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than July 8, 2019.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title, below, for reference.

Information Collection Request Title: Enrollment and Re-Certification of Entities in the 340B Drug Pricing Program, OMB No. 0915–0327—Revision.

Abstract: Section 602 of Public Law 102–585, the Veterans Health Care Act of 1992, enacted section 340B of the Public Health Service (PHS) Act, which instructs HHS to enter into a Pharmaceutical Pricing Agreement (PPA) with manufacturers of covered outpatient drugs. Manufacturers are required by section 1927(a)(5)(A) of the Social Security Act to enter into agreements with the Secretary of HHS (the Secretary) that comply with section 340B of the PHS Act if they participate in the Medicaid Drug Rebate Program. When a drug manufacturer signs a PPA, it is opting into the 340B Drug Pricing Program (340B Program), and it agrees to the statutory requirement that prices charged for covered outpatient drugs to covered entities will not exceed statutorily defined 340B ceiling prices. When an eligible covered entity voluntarily decides to enroll and participate in the 340B Program, it accepts responsibility for ensuring compliance with all provisions of the 340B Program, including all associated costs. Covered entities that choose to participate in the 340B Program must comply with the requirements of section 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) of the PHS Act prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate. Further, section 340B(a)(5)(B) of the PHS Act prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the covered entity.

Need and Proposed Use of the Information: To ensure its ongoing responsibility to administer the 340B Program while maintaining efficiency, transparency, and integrity, HRSA developed a process of registration for covered entities to address specific statutory mandates. Specifically, section 340B(a)(9) of the PHS Act requires HRSA to notify manufacturers of the identities of covered entities and of their status pertaining to certification and annual recertification in the 340B Program pursuant to section 340B(a)(7) and the establishment of a mechanism to prevent duplicate discounts as outlined at section 340B(a)(5)(A)(ii) of the PHS Act.

Also, section 340B(a)(1) of the PHS Act requires each participating manufacturer to enter into an agreement with the Secretary to offer covered outpatient drugs to 340B covered entities.

Finally, section 340B(d)(1)(B)(i) of the PHS Act requires the development of a system to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities.

HRSA is requesting approval for existing information collections. HRSA notes that the previously approved collections are mostly unchanged, except that HRSA has transitioned completely to online versus hardcopy forms. In doing so, some of the forms have been revised to increase program efficiency and integrity. Below are descriptions of each of the forms and any resulting revisions in both the registration and pricing component of

the 340B Office of Pharmacy Affairs Information System (OPAIS).

Enrollment/Registration

To enroll and certify the eligible federally funded grantees and other safety net health care providers, HRSA requires entities to submit administrative information (*e.g.,* shipping and billing arrangements, Medicaid participation), certifying information (*e.g.,* Medicare Cost Report information, documentation supporting the hospital's selected classification), and attestation from appropriate grantee level or entity level authorizing officials and primary contacts. The purpose of this registration information is to determine eligibility for the 340B Program. To maintain accurate records, HRSA requests entities to submit modifications to any administrative information they submitted when initially enrolling in the Program. 340B covered entities have an ongoing responsibility to immediately notify HRSA of any change in eligibility for the 340B Program. No less than on an annual basis, entities must certify the accuracy of the information provided and continued maintenance of their eligibility and comply with statutory mandates of the Program.

Registration and annual recertification information are entered into the 340B OPAIS by entities and verified by HRSA staff according to 340B Program requirements. The following forms are being revised:

1. 340B Program Registrations & Certifications for Hospitals (applies to all hospital types): With the launch of 340B OPAIS in September 2017, HRSA removed the requirement for a Government Official to attest to the hospital classification of a parent hospital. HRSA would like to require parent hospitals to attach documents supporting the hospital classification that they select during registration. This is a more accurate and efficient way to determine the eligibility of parent hospital registrations, without increasing the burden, since the Government Official attestation has been removed.

2. 340B Program Registrations for STD/TB Clinics: HRSA is requesting that any STD entity provide its Notice of Funding Opportunity (NOFO) number at the time of registration. HRSA is also requesting that an entity describe the type of in-kind funding it receives, as well as the time period of the funding. This will assist HRSA in accurately determining the eligibility of the covered entity registration. This requirement would impose minimal burden on the public, as the NOFO number correlates to the Federal Grant Number, which is already required during registration.

3. 340B Registrations for Ryan White Entities: HRSA is requesting that any Ryan White entity provide its NOFO number at the time of registration. HRSA is also requesting that an entity provide the time period of the assistance. This will assist HRSA to accurately determine the eligibility of the registration. This requirement would impose minimal burden on the public, as the NOFO number correlates to the Federal Grant Number, which is already required during registration.

4. Medicaid Billing: HRSA is making a minor change to clarify the question about Medicaid billing.

Accurate records are critical to the prevention of drug diversion to non-eligible individuals as well as duplicate discounts in the 340B Program. To maintain accurate records, HRSA also requires that covered entities recertify eligibility annually, and that they notify the program of updates to any administrative information that they submitted when initially enrolling in the program. HRSA expects that the burden imposed by these processes is low for recertification and minimal for submitting change requests.

Contract Pharmacy Self-Certification

To ensure that drug manufacturers and drug wholesalers recognize contract pharmacy arrangements, covered entities that elect to use one or more contract pharmacies are required to submit general information about the arrangements and certify that signed agreements are in place with those contract pharmacies.

Pharmaceutical Pricing Agreement and Addendum

In accordance with the 340B Program guidance issued in the May 7, 1993, **Federal Register**, section 340B(a)(1) of the PHS Act provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a Pharmaceutical Pricing Agreement (the ''Agreement'') with the Secretary of HHS (the ''Secretary'') in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed the average manufacturer price decreased by a rebate percentage. Also, section 340B(a)(1) of the PHS Act includes specific required components of the PPA with manufacturers of covered outpatient drugs. In particular, section 340B(a)(1) includes the following requirements:

I. ''Each such agreement shall require that the manufacturer furnish the Secretary with reports, on a quarterly basis, of the price for each covered outpatient drug subject to the agreement that, according to the manufacturer, represents the maximum price that covered entities may permissibly be required to pay for the drug (referred to in this section as the ''ceiling price'') and

II. ''. . . shall require that the manufacturer offer each covered entity covered outpatient drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price.''

The burden imposed on manufacturers by submission of the PPA and PPA Addendum is low as the information is readily available.

Pricing Data Submission, Validation and Dissemination

To implement section 340B(d)(1)(B)(i)(II) of the PHS Act, HRSA developed a system to calculate 340B ceiling prices prospectively from data obtained from the Centers for Medicare & Medicaid Services as well as a third party commercial database. However, to conduct the comparison required under the statute, manufacturers must submit the quarterly pricing data as required by section 340B(d)(1)(B)(i)(II). The 340B OPAIS securely collects the following data from manufacturers on a quarterly basis: Average manufacturer price, unit rebate amount, package size, case pack size, unit type, national drug code, labeler code, product code, period of sale (year and quarter), FDA product name, labeler name, wholesale acquisition cost, and the manufacturer determined ceiling price for each covered outpatient drug produced by a manufacturer subject to a PPA. The burden imposed on manufacturers is low because the information requested is readily available and used by manufacturers in other areas.

Likely Respondents: Drug manufacturers and covered entities.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the

information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Hours per respondent	Total burden hours
Hospital Enrollment, Additions & Recertifications					
340B Program Registrations & Certifications for Hospitals *	248	1	248	2.00	496
Certifications to Enroll Hospital Outpatient Facilities	665	8	5,320	0.50	2,660
Hospital Annual Recertifications	2,481	10	24,810	0.25	6,202
Registrations and Recertifications for Entities Other Than Hospitals					
340B Registrations for Community Health Centers *	360	3	1,080	1.00	1,080
340B Registrations for STD/TB Clinics *	535	1	535	1.00	535
340B Registrations for Various Other Eligible Entity Types *	392	1	392	1.00	392
Community Health Center Annual Recertifications	1,277	7	8,939	0.25	2,235
STD & TB Annual Recertifications	4,033	1	4,033	0.25	1,008
Annual Recertification for entities other than Hospitals, Community Health Centers, and STD/TB Clinics	4,472	1	4,472	0.25	1,118
Contracted Pharmacy Services Registration & Recertifications					
Contracted Pharmacy Services Registration	2,048	11	22,528	1.00	22,528
Other Information Collections					
Submission of Administrative Changes for any Covered Entity	19,322	1	19,322	** 0.25	4,831
Submission of Administrative Changes for any Manufacturer	350	1	350	0.50	175
Pharmaceutical Pricing Agreement and PPA Addendum	200	1	200	1.00	200
Total	36,383		92,229		43,460

* Revised since last OMB submission, but burden was not affected.
** Burden changed from .5 to .25 due to the 340B OPAIS improvement.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–09601 Filed 5–8–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (Working Group) will hold a meeting. The meeting will be open to the public. For this meeting, Working Group members will focus on plans to develop the next report to the HHS Secretary and Congress on federal tick-borne activities and research, taking into consideration the 2018 report. The 2020 report will also address a wide range of federal activities and research related to tick-borne diseases, such as, surveillance, prevention, diagnosis, diagnostics, and treatment; identify gaps in tick-borne disease research; and provide recommendations to the HHS Secretary regarding changes or improvements to such activities and research. In developing the report, the Working Group will solicit stakeholder input.

DATES: The meeting will be held on June 4, 2019, from 8:30 a.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the website for the Working Group at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2019-6-4/index.html* when this information becomes available.

ADDRESSES: The meeting will be held at the Holiday Inn Washington-Capitol, 550 C Street SW, Washington, DC 20024. Members of the public may also attend the meeting via webcast. Instructions for attending via webcast will be posted one week prior to the meeting at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2019-6-4/index.html.*

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the Working Group; Office of HIV/AIDS and Infectious Disease Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E Switzer Building, 330 C Street SW, Suite L100, Washington, DC 20024. Email: *tickborne disease@hhs.gov;* Phone: 202–795–7697.

SUPPLEMENTARY INFORMATION: In-person attendance at the meeting is limited to space available; therefore, preregistration for public members is advisable and can be accomplished by

registering at *https://www.eventbrite.com/e/tick-borne-disease-working-group-meeting-june-4-2019-meeting-9-tickets-60745681970.* On the day of the meeting, seating will be provided first to persons who have preregistered. People who have not preregistered will be accommodated on a first come, first served basis if additional seats are still available 10 minutes before the meeting starts. Non-U.S. citizens who plan to attend in person are required to provide additional information and must notify the Working Group support staff via email at *tickbornedisease@hhs.gov* before May 4, 2019.

The public will have an opportunity to present their views to the Working Group during the meeting's public comment session or by submitting their views in writing. Comments should be pertinent to the meeting discussion. Persons who wish to provide in-person or written public comment should review instructions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2019-6-4/index.html* and respond by midnight Tuesday, May 28, 2019, ET. In-person comments will be limited to three minutes each to accommodate as many speakers as possible during the 30 minute session. Written public comments will be accessible to the Working Group members and public on the Working Group web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the *21st Century Cures Act,* and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review federal efforts related to tick-borne diseases to help ensure interagency coordination and minimize overlap, examine research priorities, and identify and address unmet needs. The Working Group is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: April 26, 2019.

James Berger,

Designated Federal Officer, Tick-Borne Disease Working Group, Senior Advisor for Blood and Tissue Policy, Office of HIV/AIDS and Infectious Disease Policy.

[FR Doc. 2019–09545 Filed 5–8–19; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The cooperative agreement 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; HEAL Review.

Date: June 10, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Bethesda Marriott Suites, The Patriot Ballroom, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Christine A. Livingston, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, (301) 435–1348, *livingsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 3, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–09502 Filed 5–8–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Awards Review Meeting.

Date: June 4, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Platform Delivery Technologies for Nucleic Acid Therapeutics.

Date: June 19, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jing Chen, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4874, *chenjing@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 3, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–09504 Filed 5–8–19; 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; Exploration of Antimicrobial Therapeutics and Resistance.

Date: June 3, 2019.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

Date: June 4–5, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Veterinary and Comparative Medicine.

Date: June 4, 2019.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 6188, MSC 7804, Bethesda, MD 20892, 301–435–1267, *belangerm@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.

Date: June 6–7, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207 MSC 7812, Bethesda, MD 20892, (301) 435–1238, *hodged@mail.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Probes and Contrast Agents Study Section.

Date: June 6–7, 2019.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.

Date: June 6–7, 2019.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: June 6, 2019.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 3, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–09503 Filed 5–8–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-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 Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, 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.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on November 5, 2018, page 55374 (83 FR 55374) and allowed 60 days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

The Office of the Director (OD), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: NIH Office of Intramural Training & Education—Application, Registration, and Alumni Systems Office of the Director—0925–0299, exp., date 06/30/2019–REVISION—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

Form	Type of respondent	Number of respondents	Number of responses per respondent	Average time/response (hours)	Total annual burden hours
1	High School Scientific Training & Enrichment Program—Orientation.	25	1	10/60	4
2	High School Scientific Training & Enrichment Program 2.0—Orientation.	25	1	10/60	4
3	HiSTEP & HiSTEP2—Alumni Tracking	125	2	30/60	125
4	Summer Internship Program—Application	8,000	1	45/60	6,000
5	Summer Internship Program—Recommendation Letters	16,000	1	10/60	2,667
6	Amgen Scholars at NIH—Supplemental Application	535	1	10/60	89
7	Amgen Scholars at NIH—Feedback	20	1	15/60	5
8	Amgen Scholars at NIH—Alumni Tracking	127	1	30/60	64
9	Community College Summer Enrichment Program—Alumni Tracking.	158	1	10/60	26
10	College-Summer Opportunities in Advanced Research—Alumni Tracking.	158	1	10/60	26
11	Graduate-Summer Opportunities in Advanced Research—Alumni Tracking.	114	1	30/60	57
12	Graduate Data Science Summer Program—Alumni Tracking.	30	1	30/60	15
13	Native American Visit Week—Application	15	1	20/60	5
14	Native American Visit Week—Recommendation Letters	15	1	10/60	3
15	Native American Visit Week—Feedback	15	1	15/60	4
16	Undergraduate Scholarship Program—Application	125	1	60/60	125
17	Undergraduate Scholarship Program—Recommendation Letters for Applicants.	375	1	10/60	63
18	Undergraduate Scholarship Program—Exceptional Financial Need—Completed by Applicant.	125	1	3/60	6
18	Undergraduate Scholarship Program—Exceptional Financial Need—Completed by University Staff.	125	1	15/60	31
18	Undergraduate Scholarship Program—Exceptional Financial Need Resubmission—Completed by Applicant.	38	1	3/60	2
18	Undergraduate Scholarship Program—Exceptional Financial Need Resubmission—Completed by University Staff.	38	1	15/60	10
19	Undergraduate Scholarship Program—Scholar Contract	25	1	10/60	4
20	Undergraduate Scholarship Program—Evaluation of Scholar Pay Back Period.	30	1	15/60	8
21	Undergraduate Scholarship Program—Renewal Application.	15	1	45/60	11
22	Undergraduate Scholarship Program—Recommendation Letters for Renewals.	15	1	10/60	3
23	Undergraduate Scholarship Program—Deferment Form—Completed by Scholar.	10	1	3/60	1

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form	Type of respondent	Number of respondents	Number of responses per respondent	Average time/response (hours)	Total annual burden hours
23	Undergraduate Scholarship Program—Deferment Form—Completed by University Staff.	10	1	12/60	2
24	Postbaccalaureate Training Program—Application	2,250	1	45/60	1,688
25	Postbaccalaureate Training Program—Recommendation Letters.	6,750	1	10/60	1,125
26	NIH Academy—Fellow & Certificate Programs Application.	300	1	15/60	75
27	NIH Academy—Enrichment Program Application	175	1	15/60	44
28	Graduate Partnerships Program—Application	325	1	60/60	325
29	Graduate Partnerships Program—Recommendation Letters for Application.	975	1	10/60	163
30	Graduate Partnerships Program—Interview Experience Survey.	30	1	10/60	5
31	Graduate Partnerships Program—Registration	175	1	15/60	44
32	Graduate Partnerships Program—Awards Certificate	75	1	30/60	38
33	MyOITE—User Accounts	6,000	1	3/60	300
34	MyOITE—NIH Alumni	500	1	15/60	125
35	OITE Careers Blog—Success Stories	6	1	45/60	5
Totals		43,854	43,979		13,297

Dated: May 2, 2019.

Lawrence A. Tabak,

Principle Deputy Director, National Institutes of Health.

[FR Doc. 2019–09517 Filed 5–8–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0303]

Certificate of Alternative Compliance for the Towing Vessel CAPE CANAVERAL

AGENCY: Coast Guard, DHS.

ACTION: Notification of issuance of a certificate of alternative compliance.

SUMMARY: The Coast Guard announces that the Fifth District, Chief of Prevention Division has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the towing vessel CAPE CANAVERAL, Official Number (O.N.) 1293905, Master Boat Builders Hull Number 461. We are issuing this notice because its publication is required by statute. Due to its construction, purpose and service, the towing vessel CAPE CANAVERAL cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the vessel's design and construction. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

DATES: The Certificate of Alternative Compliance was issued on April 26, 2019.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email LCDR Ronaydee M. Marquez, District Five, Asst. Chief, Inspections and Investigations, U.S. Coast Guard; telephone: 757–398–6682, email: *Ronaydee.M.Marquez@uscg.mil.*

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law, however, specified 72 COLREGS provisions are not applicable to a vessel of special construction or purpose if the Coast Guard determines that the vessel cannot comply fully with those requirements without interfering with the special function of the vessel.[1]

The owner, builder, operator, or agent of a special construction or purpose vessel may apply to the Coast Guard District Office in which the vessel is being built or operated for a determination that compliance with alternative requirements is justified,[2] and the Chief of the Prevention Division would then issue the applicant a certificate of alternative compliance (COAC) if he or she determines that the vessel cannot comply fully with 72 COLREGS light, shape, and sound signal provisions without interference with the vessel's special function.[3] If the Coast Guard issues a COAC, it must publish notice of this action in the **Federal Register**.[4]

The Fifth District, Chief of Prevention Division, U.S. Coast Guard, certifies that the CAPE CANAVERAL, O.N. 1293905 is a vessel of special construction or purpose, and that, with respect to the position of the sidelights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, or design of the vessel. The vessel is a dual-mode Articulated Tug (ATB), which intends to operate as an ATB as well as multiple other modes such as towing alongside, harbor ship/barge assist tug and towing on a towline. Placing the sidelights at or near the side of the vessel would interfere with the vessel's purpose and operations, and would place the sidelights as risk of damage during the course of normal operations. The sidelights will be installed on the elevated pilothouse, 6′ 7″ inboard from the sides of the vessel. The Fifth District, Chief of Prevention Division further finds and certifies that the sidelights are in the closet possible compliance with the applicable provisions of the 72 COLREGS.[5]

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

[1] 33 U.S.C. 1605.

[2] 33 CFR 81.5.

[3] 33 CFR 81.9.

[4] 33 U.S.C. 1605(c) and 33 CFR 81.18.

[5] 33 U.S.C. 1605(a); 33 CFR 81.9.

Dated: April 26, 2019.

J.R. Barnes,

Captain, U.S. Coast Guard, Chief, Prevention Division, Fifth Coast Guard District.

[FR Doc. 2019–09535 Filed 5–8–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Notice; correction.

SUMMARY: On February 22, 2019, FEMA published in the **Federal Register** a changes in flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 84 FR 5705. The table provided here represents the changes in flood hazard determinations and communities affected for Adams County, Colorado.

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.

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.

Correction

In the changes in flood hazard determination notice published at 84 FR 5705 in the February 22, 2019 issue of the **Federal Register**, FEMA published a table with erroneous information. This table contained inaccurate information as to the date of modification featured in the table.

In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado: Adams (FEMA Docket No.: B–1855).	Unincorporated areas of Adams County (18–08–0619P).	The Honorable Mary Hodge, Chair, Adams County Board of Commissioners, 4430 South Adams County Parkway, 5th Floor, Suite C5000A, Brighton, CO 80601.	Adams County Community and Economic Development Department, 4430 South Adams County Parkway, Brighton, CO 80601.	Dec. 5, 2018	080024

[FR Doc. 2019–09603 Filed 5–8–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1928]

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.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, 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.
Alabama:						
Madison	Unincorporated areas of Madison County (19–04–1087P).	The Honorable Dale W. Strong, Chairman, Madison County Commission, 100 North Side Square, Huntsville, AL 35801.	Engineering Department, 100 Hughes Road, Madison, AL 35758.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 29, 2019	010151
Russell	City of Phenix City (17–04–3686P).	The Honorable Eddie N. Lowe, Mayor, City of Phenix City, 1206 7th Avenue, Phenix City, AL 36867.	Engineering and Public Works Department, 1206 7th Avenue, Phenix City, AL 36867.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 5, 2019	010184
Connecticut: New Haven.	Town of Branford (19–01–0264P).	The Honorable James B. Cosgrove, First Selectman, Town of Branford Board of Selectmen, 1019 Main Street, Branford, CT 06405.	Engineering Department, 1019 Main Street, Branford, CT 06405.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 28, 2019	090073
Florida:						
Duval	City of Jacksonville (18–04–7273P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32002.	Development Services Department, 214 North Hogan Street, Suite 2100, Jacksonville, FL 32002.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 2, 2019	120077
Duval	City of Neptune Beach (18–04–7273P).	Mr. Andrew E. Hyatt, Manager, City of Neptune Beach, 116 1st Street, Neptune Beach, FL 32266.	Planning and Community Development Department, 116 1st Street, Neptune Beach, FL 32266.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 2, 2019	120079

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.
Leon	City of Tallahassee (18–04–2534P).	The Honorable Andrew Gillum, Mayor, City of Tallahassee, 300 South Adams Street, Tallahassee, FL 32301.	City Hall, 300 South Adams Street, Tallahassee, FL 32301.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	120144
Monroe	Unincorporated areas of Monroe County (19–04–1616P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 22, 2019	125129
Georgia: Muscogee	Columbus Consolidated Government (17–04–3686P).	The Honorable Teresa Tomlinson, Mayor, City of Columbus, 100 East 10th Street, Columbus, GA 31901.	Stormwater Division, 420 10th Street, Columbus, GA 31901.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 5, 2019	135158
Mississippi: Madison.	City of Canton (19–04–0575P).	The Honorable William Truly, Jr., Mayor, City of Canton, P.O. Box 1605, Canton, MS 39046.	Building and Development Department, 226 East Peace Street, Canton, MS 39046.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 2, 2019	280109
Nevada: Clark	City of North Las Vegas (18–09–1807P).	Mr. Ryann Juden, Manager, City of North Las Vegas, 2250 Las Vegas Boulevard North, Suite 900, North Las Vegas, NV 89030.	Public Works Department, 2200 Civic Center Drive, North Las Vegas, NV 89030.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 30, 2019	320007
Pennsylvania:						
Beaver	Borough of Big Beaver (19–03–0284P).	The Honorable Don Wachter, Mayor, Borough of Big Beaver, 114 Forest Drive, Darlington, PA 16115.	Zoning and Code Enforcement Department, 114 Forest Drive, Darlington, PA 16115.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 15, 2019	422307
Beaver	Township of Darlington (19–03–0284P).	The Honorable Chad Crawford, Mayor, Township of Darlington Board of Supervisors, 3590 Darlington Road, Darlington, PA 16115.	Zoning and Code Enforcement Department, 3590 Darlington Road, Darlington, PA 16115.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 15, 2019	422312
Texas:						
Collin	City of Celina (18–06–2512P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	Engineering Services Department, 142 North Ohio Street, Celina, TX 75009.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 15, 2019	480133
Collin	Town of Fairview (18–06–1879P).	The Honorable Darion Culbertson, Mayor, Town of Fairview, 372 Town Place, Fairview, TX 75069.	Town Hall, 372 Town Place, Fairview, TX 75069.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 8, 2019	481069
Collin	Unincorporated areas of Collin County (18–06–2512P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 15, 2019	480130
Fort Bend	Unincorporated areas of Fort Bend County (19–06–0254P).	The Honorable K. P. George, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, Richmond, TX 77469.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 8, 2019	480228
Tarrant	City of Fort Worth (18–06–1342P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 17, 2019	480596
Tarrant	City of Fort Worth (18–06–2089P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 11, 2019	480596

[FR Doc. 2019–09602 Filed 5–8–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2018–0077]

Privacy Act of 1974; System of Records

AGENCY: United States Coast Guard, Department of Homeland Security.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to modify, rename, and reissue a current DHS system of records titled, ''Department of Homeland Security/United States Coast Guard–008 Courts-Martial Case Files System of Records.'' This system of records allows the DHS/United States Coast Guard (USCG) to collect and maintain records regarding military justice administration and documentation of USCG Courts-Martial proceedings. DHS/USCG is renaming this system to ''DHS/USCG–008 Courts-Martial and Military Justice Case Files System of Records,'' and updating this system of records notice to include new and modified routine uses, as well as remove one existing routine use. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

The exemptions for the existing system of records will continue to be applicable for this modified system of records notice, and this modified system will be continue to be included in DHS's inventory of record systems.

DATES: Submit comments on or before June 10, 2019. This modified system will be effective upon publication. New or modified routine uses will be effective June 10, 2019.

ADDRESSES: You may submit comments, identified by docket number DHS–2018–0077 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

Instructions: All submissions received must include the agency name and docket number DHS–2018–0077. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Brian Burns, (202) 475–3507, *HQS-DG-M-CG-61-PII@uscg.mil,* Privacy Officer, Commandant (CG–6d), United States Coast Guard, Mail Stop 7710, Washington, DC 20593. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, *Privacy@hq.dhs.gov,* Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) United States Coast Guard (USCG) proposes to modify, rename, and reissue a current DHS system of records titled ''DHS/USCG–008 United States Coast Guard Courts-Martial Case Files System of Records.'' This system of records is being renamed ''DHS/USCG–008 Courts-Martial and Military Justice Case Files System of Records.'' This system of records allows DHS/USCG to collect and maintain records regarding military justice administration and documentation of USCG Courts-Martial proceedings. In order to meet the requirements of the Uniform Code of Military Justice and Rules for Courts-Martial that will take effect on January 1, 2019, in accordance with Executive Order 13825 titled ''2018 Amendments to the Manual for Courts-Martial,'' this notice includes the following updates:

(1) Routine Use ''J'' is required to meet the requirements of the Manual for Courts-Martial, United States (2019 ed.), Pt. II, Rules for Courts-Martial 1106 and 1106A; and

(2) Routine Use ''K'' is required to meet the requirements of the Manual for Courts-Martial, United States (2019 ed.), Pt. II, Rule for Courts-Martial 1112(b).

Routine Use ''J'' will allow the accused and crime victims or their counsel to access the court-martial records in order to prepare matters to be submitted to the convening authority within the time limit prescribed in the Rules for Court Martial. Routine Use ''K'' will allow the accused, a victim of an offense of which the accused was charged, if the victim testified during the proceedings, and any victim named in a specification of which the accused was charged, to receive a copy of the record of trial upon request per the Rules for Courts-Martial. Routine Uses ''J'' and ''K'' are new and will be replacing Routine Use ''L'' from the existing SORN.

Additionally, DHS/USCG is modifying Routine Use ''E'' and adding Routine Use ''F'' to conform to OMB Memorandum M–17–12 ''Preparing for and Responding to a Breach of Personally Identifiable Information'' (January 3, 2017). Routine Use ''I'' from the previous version of this SORN regarding the sharing of statistical data about the information in this system of records has been removed. All routine uses have been renumbered to account for these changes. Lastly, DHS is making non-substantive changes to the text and formatting of this SORN to align with previously published DHS SORNs.

Consistent with DHS's information sharing mission, records covered by this SORN may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/USCG may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This modified system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/USCG–008 Courts-Martial and Military Justice Case Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Homeland Security (DHS)/United States Coast Guard (USCG)–008 Courts-Martial and Military Justice Case Files System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the United States Coast Guard Headquarters in Washington, DC, and field offices. The Case Matter Management Tracking System (CMMT) is the information technology (IT) system in which records associated with this function are maintained.

SYSTEM MANAGER(S):

Commandant, Office of Military Justice (CG–LMJ), United States Coast Guard Headquarters, *HQS-DG-LST-CG-LMJ@uscg.mil,* 2703 Martin Luther King Jr. Ave. SE, Washington, DC 20593–7213.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

14 U.S.C. 632; 10 U.S.C. secs. 801, 806b, 815, 822, 823, 865, and 892, and other related provisions of Title 10, Armed Forces, Subtitle A—General Military Law, Chapter 47—Uniform Code of Military Justice; E.O. 11835; E.O. 12198, E.O. 12473, E.O. 12233, and E.O. 13825; DHS Delegation 00170.1, ''Delegation to the Commandant of the U.S. Coast Guard.''

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to document military justice administration and documentation of USCG Courts-Martial proceedings relating to all USCG active duty, reserve, and retired active duty and retired reserve military personnel and other individuals who are tried by, or involved with, court martial.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include all USCG active duty, reserve, and retired active duty and retired reserve military personnel and other individuals who are tried by, or involved with, courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in this system include:

- Individual's name;
- Date of birth;
- Social Security number (SSN) (if collected);
- Employee identification number;
- Phone numbers;
- Email addresses;
- Addresses;
- Job-related information including: job title, rank, duty station, supervisor's name, and contact information; and
- Records of Trial (contents are in accordance with Article 54 of the Uniform Code of Military Justice and Rules for Court-Martial 1112, which includes charge sheets, exhibits, transcript of trial, sentencing report, arguments, and various other documents).

RECORD SOURCE CATEGORIES:

Records are obtained from USCG investigating officers, military, and civilian personnel. The records include the records of pre-trial preliminary hearings and records of trial for individual courts-martial. They also include records from post-trial hearing and appellate review of such courts-martial, including records of review in the Office of the Judge Advocate General and Chief Counsel of the Coast Guard, the Coast Guard Court of Criminal Appeals, and the Court of Appeals for the Armed Forces.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other federal agency conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another Federal agency or Federal entity, when DHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on

disclosure as are applicable to DHS officers and employees.

I. To the confinement facility, if confinement is adjudged, and the confinement facility is not a USCG facility.

J. To accused and crime victims or their counsel for the purpose of submitting matters pursuant to the Manual for Courts-Martial (2019 ed.), Pt. II, Rules for Courts-Martial (R.C.M.) 1106 and 1106A, a copy of the recording of all open sessions of the court-martial, and copies of, or access to, the evidence admitted at the court-martial, and appellate exhibits. Sealed and classified court-martial recordings or materials must be authorized by a military judge in accordance with R.C.M. 1106 and 1106A. The term victim is defined in R.C.M. 1106A(b)(2).

K. To the accused or the victim of an offense of which the accused was charged if the victim testified during the proceeding, and any victim named in a specification of which the accused was charged without regards to the findings of the court-martial, a copy of the record of trial per the Manual for Courts-Martial (2019 ed.), Pt. II, Rules for Courts-Martial (R.C.M.) 1112(e). Any sealed exhibits, classified information, or closed sessions of the court-martial shall not be provided per R.C.M 1112(e)(3). The contents of the record of trial are outlined in R.C.M. 1112(b) and the term victim is defined in R.C.M. 1106A(b)(2).

L. To the Veterans Administration (VA) to assist USCG in determining the individual's entitlement to benefits administered by the VA.

M. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS/USCG stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

USCG retrieves records by the name of the individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All General Courts-Martial and Special Courts-Martial records involving Bad Conduct Discharge are permanent. Transfer to Federal Records Center (FRC) 2 years after date of final action. Transfer to the National Archives and Records Administration (NARA) 10 years after final action (AUTH: NC1–26–76–2, Item 384a). Special Courts-Martial other than those involving Bad Conduct Discharges are temporary. Transfer to FRC 2 years after date of final action. Destroy 10 years after date of final action. (AUTH: NC1–26–76–2, Item 384b). Summary Courts-Martial convened after 5 May 1950 are Temporary. Transfer to FRC 2 years after date of final action. Destroy 10 years after date of final action. (AUTH: NC1–26–76–2, Item 384c(1)).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS/USCG safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. USCG has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act, and JRA if applicable, because it is a law enforcement system. However, DHS/USCG will consider individual requests to determine whether or not information may be released. Thus, individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and United States Coast Guard Freedom of Information Act (FOIA) Officer whose contact information can be found at *http://www.dhs.gov/foia* under ''Contact Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, the individual should:

- Explain why he or she believes the Department would have information being requested;
- Identify which component(s) of the Department he or she believes may have the information;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are

exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), and (e)(8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

HISTORY:

79 FR 64815 (October 31, 2014); 76 FR 39245 (July 6, 2011); 76 FR 27847 (May 13, 2011); 73 FR 64961 (October 31, 2008).

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2019–09597 Filed 5–8–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6154–N–01]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with the National Housing Act, HUD has adjusted the Basic Statutory Mortgage Limits for Multifamily Housing Programs for Calendar Year 2019.

DATES: January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Patricia M. Burke, Acting Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000, telephone (202) 402–5693 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHA Down Payment Simplification Act of 2002 (Pub. L. 107–326, approved December 4, 2002) amended the National Housing Act by adding a new Section 206A (12 U.S.C. 1712a). Under Section 206A, the following

I. Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));
II. Section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));
III. Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));
IV. Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));
V. Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and
VI. Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The Dollar Amounts in these sections are the base per unit statutory limits for FHA's multifamily mortgage programs collectively referred to as the 'Dollar Amounts.' They are adjusted annually (commencing in 2004) on the effective date of the Consumer Financial Protection Bureau's (CFPB's) adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub. L. 103–325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the CFPB for purposes of the above-described HOEPA adjustment.

The percentage change in the CPI–U used for the HOEPA adjustment is 1.9 percent and the effective date of the HOEPA adjustment is January 1, 2019. The Dollar Amounts under Section 206A have been adjusted correspondingly and have an effective date of January 1, 2019.

The adjusted Dollar Amounts for Calendar Year 2019 are shown below:

Basic Statutory Mortgage Limits for Calendar Year 2019

Multifamily Loan Program

Section 207—Multifamily Housing

Section 207 Pursuant to Section 223(f)—Purchase or Refinance Housing

Section 220—Housing in Urban Renewal Areas

Bedrooms	Non-elevator	Elevator
0	$53,658	$62,587
1	59,440	69,349
2	71,000	85,035
3	87,513	106,502
4+	99,074	120,424

Section 213—Cooperatives

Bedrooms	Non-elevator	Elevator
0	$58,151	$61,918
1	67,050	70,151
2	80,864	85,304
3	103,507	110,357
4+	115,314	121,141

Section 234—Condominium Housing

Bedrooms	Non-elevator	Elevator
0	$59,338	$62,445
1	68,418	71,584
2	82,514	87,047
3	105,621	112,611
4+	117,666	123,611

Section 221(d)(4)—Moderate Income Housing

Bedrooms	Non-elevator	Elevator
0	$53,400	$57,684
1	60,619	66,129
2	73,274	80,413
3	91,970	104,026
4+	103,924	114,191

Section 231—Housing for the Elderly

Bedrooms	Non-elevator	Elevator
0	$50,770	$57,684
1	56,758	66,129
2	67,778	80,413
3	81,567	104,026
4+	95,896	114,191

Section 207—Manufactured Home Parks Per Space—$24,634

Per Unit Limit for Substantial Rehabilitation for Calendar Year 2019

The 2016 Multifamily Accelerated Processing (MAP) Guide established a base amount of $15,000 per unit to define substantial rehabilitation for FHA insured loan programs. Section 5.1.D.2 of the MAP guide requires that this base amount be adjusted periodically based on the percentage change published by the CFPB or other inflation cost index published by HUD. Applying the HOEPA adjustment the base amount, the 2019 base amount per dwelling unit to determine substantial rehabilitation for FHA insured loan programs is $15,933.

Environmental Impact

This issuance establishes mortgage and cost limits that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: May 2, 2019.

John Garvin,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2019–09567 Filed 5–8–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX.19.GG00.996.00; OMB Control Number 1028–0051/Renewal]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Earthquake Hazards Program Research and Monitoring

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection as part of our continuing efforts to reduce paperwork and respondent burden.

DATES: Interested persons are invited to submit comments on or before June 10, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0051 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jill M. Franks, Earthquake Hazards Program, U.S. Geological Survey by email at *jfranks@usgs.gov,* or by telephone at 703–648–6716. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 1, 2019, 83 FR 1199. No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Research and monitoring findings are essential to fulfilling USGS's responsibility under the Earthquake Hazards Reduction Act to develop earthquake hazard assessments and recording earthquake activity nationwide. Residents, emergency responders, and engineers rely on the USGS for this accurate and scientifically sound information. The Earthquake Hazards Program funds external investigators to carry out these important activities. In response to our Program Announcements investigators submit proposals for research and monitoring activities on earthquake hazard assessments, earthquake causes and effects, and earthquake monitoring. This information is used as the basis for selection and award of projects meeting the USGS's Earthquake Hazards Program objectives. Final reports of research and monitoring findings are required for each funded proposal; annual progress reports are required for awards of a two- to five-year duration. Final reports are made available to the public at the website *http://earthquake.usgs.gov/research/external/.*

Title of Collection: Earthquake Hazards Program Research and Monitoring.

OMB Control Number: 1028–0051.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Research scientists, engineers, and the general public.

Total Estimated Number of Annual Respondents: 350.

Total Estimated Number of Annual Responses: 350 responses in total, consisting of 250 applications and narratives and 100 annual and final reports.

Estimated Completion Time per Response: 45 hours per proposal application response and 12 hours per final or annual progress report.

Total Estimated Number of Annual Burden Hours: 12,450 (11,250 hours per application and 1,200 hours per final or annual progress report).

Respondent's Obligation: Required in order to receive or retain benefits.

Frequency of Collection: Annually and once every two to five years.

Total Estimated Annual Non-Hour Burden Cost: There are no ''non-hour cost'' burdens associated with this IC.

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.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Trent M. Richardson,

Deputy Associate Director for Natural Hazards.

[FR Doc. 2019–09519 Filed 5–8–19; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[192A2100DD/AAKC001030/A0A501010.999900253G]

Indian Child Welfare Act; Designated Tribal Agents for Service of Notice

AGENCY: Bureau of Indians Affairs, Interior.

ACTION: Notice.

SUMMARY: The regulations implementing the Indian Child Welfare Act provide that Indian Tribes may designate an agent other than the Tribal chairman for service of notice of proceedings under the Act. This notice includes the current list of designated Tribal agents for service of notice.

FOR FURTHER INFORMATION CONTACT: Angie Campbell, Chief, Division of Human Services, Bureau of Indian Affairs, 1849 C Street NW, Mail Stop 3641–MIB, Washington, DC 20240; Phone: (202) 513–7621.

SUPPLEMENTARY INFORMATION: The regulations implementing the Indian Child Welfare Act, 25 U.S.C. 1901 *et seq.,* provide that Indian Tribes may designate an agent other than the Tribal chairman for service of notice of proceedings under the Act. *See* 25 CFR 23.12. The Secretary of the Interior is required to update and publish in the **Federal Register** as necessary the names and addresses of the designated Tribal agents. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

In any involuntary proceeding in a State court where the court knows or has reason to know that an Indian child is involved, and where the identity and location of the child's parent or Indian custodian or Tribe is known, the party seeking the foster-care placement of, or termination of parental rights to, an Indian child must directly notify the parents, the Indian custodians, and the child's Tribe by registered or certified mail with return receipt requested, of the pending child-custody proceedings and their right of intervention. Copies of these notices must be sent to the appropriate Regional Director by registered or certified mail with return receipt requested or by personal delivery. See 25 CFR 23.11.

If the identity or location of the child's parents, the child's Indian custodian, or the Tribes in which the Indian child is a member or eligible for membership cannot be ascertained, but there is reason to know the child is an Indian child, notice of the child-custody proceeding must be sent to the appropriate Bureau of Indian Affairs Regional Director (see *www.bia.gov*). See 25 CFR 23.111.

No notices, except for final adoption decrees, are required to be sent to the BIA Central Office in Washington, DC.

This notice presents, in two different formats, the names and addresses of current designated Tribal agents for service of notice, and includes each designated Tribal agent received by the Secretary of the Interior prior to the date of this publication. Part A, published in this notice, lists designated Tribal agents by region and alphabetically by Tribe within each region. Part A is also available electronically at *http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm.*

Part B is a table that lists designated Tribal agents alphabetically by the Tribal affiliation (first listing American Indian Tribes, then listing Alaska Native Tribes). Part B is only available electronically at *http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm.*

Each format also lists the Bureau of Indian Affairs contact(s) for each of the 12 regions:

1. Alaska Region
2. Eastern Region
3. Eastern Oklahoma Region
4. Great Plains Region
5. Midwest Region
6. Navajo Region
7. Northwest Region
8. Pacific Region
9. Rocky Mountain Region
10. Southern Plains Region
11. Southwest Region
12. Western Region

A. List of Designated Tribal Agents by Region

1. Alaska Region

Alaska Regional Director, Bureau of Indian Affairs, Human Services, 3601 C Street, Suite 1100 Anchorage, Alaska 99503; Phone: (907) 271–4111.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Afognak, Native Village of.	Denise Malutin, ICWA Worker.	115 Mill Bay Road, Kodiak, AK 99615–6332.	(907) 486–6357	(907) 486–6529	*denise@afognak.org.*
Agdaagux Tribe of King Cove.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Akhiok, Native Village of.	Cassie Keplinger, Family Services Coordinator.	3449 Rezanof Drive East, Kodiak, AK 99615–6952.	(907) 486–9882	(907) 486–4829	*cassie.keplinger@kodiakhealthcare.org.*
Akiachak Native Community.	Georgianna Wassilie, ICWA Community Family Service Specialist.	P.O. Box 51070, Akiachak, AK 99551–0070.	(907) 825–4626	(907) 825–4029	*gwassilie@avcp.org.*
Akiachak Native Community.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Akiak Native Community.	Olinka Jones, ICWA Director.	P.O. Box 52127, Akiak, AK 99552.	(907) 765–7112	(907) 765–7512	*akiakicwadept@gmail.com.*
Akutan, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 E International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Alakanuk, Village of	Charlene Strilling, ICWA Dept..	P.O. Box 149, Alakanuk, AK 99554–0149.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Alakanuk, Village of	Juanita Joseph, Tribal Administrator.	P.O. Box 149, Alakanuk, AK 99554–0149.	(907) 238–3419	(907) 238–3429	*auktc0149@gmail.com.*
Alatna Village	Tribal Administrator	P.O. Box 70, Allakaket, AK 99720.	(907) 968–8397	(907) 968–2304.	
Alatna Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Aleknagik, Native Village of.	Jane Gottschalk, Caseworker.	P.O. Box 115, Aleknagik, AK 99555.	(907) 842–4577	(907) 842–2229	*aleknagokicwa@bbna.com.*
Aleknagik, Native Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Algaaciq Native Village (St. Mary's).	Tribal Administrator, ICWA Community Family Service Specialist.	Box 48, St. Mary's, AK 99658–0048.	(907) 438–2335	(907) 438–2227.	
Algaaciq Native Village (St. Mary's).	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Allakaket Village	Elisa Bergman, Tribal Family Youth Specialist.	P.O. Box 50, Allakaket, AK 99720.	(907) 968–2237	(907) 968–2233	*Elisa.Bergman@tananachiefs.org.*
Allakaket Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Ambler, Native Village of.	Beatrice Miller, ICWA Coordinator; Katherine Cleveland, Council; Virginia Commack, Tribe Manager; Shield Downy, Jr., Council.	P.O. Box 47, Ambler, AK 99786.	(907) 445–2196	(907) 445–2257	*icwa@ivisaappaat.org; tribemanager@ivisaappaat.org.*
Anaktuvuk Pass, Village of.	Joshua Stein, Director of Social Services.	P.O. Box 1232, Barrow, AK 99723–1232.	(907) 852–9374	(907) 852–2761	*joshua.stein@arcticslope.org.*
Andreafski (see Yupiit of Andreafski).					
Angoon Community Association.	Marlene Zuboff, ICWA Worker.	P.O. Box 328, Angoon, AK 99820.	(907) 788–3411	(907) 788–3412	*mzuboff.agntribe@gmail.com.*
Aniak, Village of	Muriel Morgan, ICWA Worker.	P.O. Box 349, Aniak, AK 99556.	(907) 675–4349	(907) 675–4513	*twinksmorgan@gmail.com.*
Anvik Village	Kristen Kruger, Tribal Family Youth Specialist.	P.O. Box 10, Anvik, AK 99558.	(907) 663–6322	(866) 524–5035.	
Anvik Village	Miriam A. Titus, Child Protection Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Arctic Village	Margorie Gemmill, Tribal Administrator.	P.O. Box 22069, Arctic Village, AK 99722.	(907) 587–5523	(907) 587–5128.	
Arctic Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Asa'carsarmiut Tribe (formerly Native Village of Mountain Village).	Darlene Peterson, Jacqueline Landlord, Directors of Social Services & Education I/II.	P.O. Box 32107, Mountain Village, AK 99632–0107.	(907) 591–2428	(907) 591–2934	*atcicwa@gci.net.*
Atka, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 E. International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Atmautluak, Village of.	Andrew Steven, Tribal Administrator.	P.O. Box 6568, Atmautluak, AK 99559–6568.	(907) 553–5610	(907) 553–5612	*atmautluaktc@gmail.com.*
Atqasuk Village	Joshua Stein, Director of Social Services.	P.O. Box 1232, Atqasuk, AK 99723–1232.	(907) 852–9374	(907) 852–2761	*joshua.stein@arcticslope.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Barrow Inupiat Traditional Government, Native Village of.	Jeanne Pete, Social Services Director.	P.O. Box 1130, Barrow, AK 99723.	(907) 852–4411; (907) 852–8908.	(907) 852–4413	*jeanne.pete@nvbarrow.net.*
Beaver Village	Arlene Pitka, Tribal Family Youth Specialist.	P.O. Box 24029, Beaver, AK 99724.	(907) 628–6126; (907) 628–2252.	(907) 628–6815.	
Beaver Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Belkofski, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Bethel (see Orutsararmuit Native Council).					
Bettles Field (see Evansville Village).					
Bill Moore's Slough, Village of.	Rose A. Cheemuk, Tribal Administrator; Emma Matthias, ICWA Worker.	P.O. Box 20288, Kotlik, AK 99620–0288.	(907) 899–4232; (907) 899–4236.	(907) 899–4461; (907) 899–4002.	*bms99620@gmail.com; bmsicwa@gmail.com.*
Birch Creek Tribe	Jackie Balaam, Tribal Family Youth Specialist.	3202 Shell Street, Fairbanks, AK 99701.	(907) 378–1573	(907) 374–9925.	
Birch Creek Tribe	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Brevig Mission, Native Village of.	Linda Divers, Tribal Family Coordinator.	P.O. Box 85039, Brevig Mission, AK 99785–0039.	(907) 642–3012	(907) 443–3042	*ldivers@kawerak.org.*
Brevig Mission, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Buckland, Native Village of.	Courtney Hadley, ICWA Coordinator—Tribal Clerk.	P.O. Box 67, Buckland, AK 99727–0067.	(907) 494–2169	(907) 494–2192	*icwa@nunachiak.org.*
Cantwell, Native Village of (Copper River Native Association).	Arleen Lenard, ICWA Advocate.	P.O. Box H, Copper Center, AK 99573–0508.	(907) 822–5241, Ext. 2047.	(907) 959–2389	*alenard@crnative.org.*
Central Council of the Tlingit and Haida Indian Tribes.	Barbara Dude, Family Services Administrator.	320 W Willoughby Ave., Suite 300, Juneau, AK 99801–1772.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.org.*
Chalkyitsik Village ...	Robin Jonas, Tribal Administrator.	P.O. Box 57, Chalkyitsik, AK 99788.	(907) 848–8117	(907) 848–8986	*RobinJonas63@outlook.com.*
Chalkyitsik Village ...	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Ave., Suite 600, Fairbanks, AK 99701–4899.	(907) 848–8117	(907) 848–8986	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Cheesh-Na Tribe	Donna Boston, ICWA.	HCO1 Box 217, Gakona, AK 99586.	(907) 822–3503	(907) 822–5179	*adminassist@cheeshna.com.*
Chefornak, Village of	Edward Kinegak, ICWA Specialist.	P.O. Box 110, Chefornak, AK 99561–0110.	(907) 867–8808	(907) 867–8711	*suckaq@gmail.com.*
Chenega, Native Village of.	Norma J. Selanoff, ICWA Representative.	P.O. Box 8079, Chenega Bay, AK 99574–8079.	(907) 573–2086	.....	*taaira@nativevillageofchanega.com.*
Chevak Native Village.	Roger Imgalrea, ICWA Community Family Service Specialist.	P.O. Box 140, Chevak, AK 99563–0140.	(907) 858–7428	(907) 858–7812	*RImgalrea1@avcp.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Chevak Native Village.	Valerie Andrew, ICWA Director.	P.O. Box 219, Chevak, AK 99559.	(907) 543–8691	(907) 858–7812	*ICWA2@AVCP.org.*
Chickaloon Native Village.	Lisa Wade, Health, Education, & Social Services Director.	P.O. Box 1105, Chickaloon, AK 99674–1105.	(907) 745–0749	(907) 745–0709	*lrwade@chickaloon-nsn.gov; cvadmin@chickaloon-nsn.gov.*
Chignik Bay Tribal Council.	Debbie Carlson, Administrator.	P.O. Box 11, Chignik Bay, AK 99564.	(907) 749–2445	(907) 749–2423	*chignikbayadmin@bbna.com.*
Chignik Bay Tribal Council.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Chignik Lagoon, Native Village of.	Nancy Mills, ICWA Case Worker.	P.O. Box 9, Chignik Lagoon, AK 99565–0009.	(907) 444–4060	(907) 840–2282	*chigniklagoonicwa@bbna.com.*
Chignik Lagoon, Native Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Chignik Lake Village	Natalie Lind, Administrator.	P.O. Box 33, Chignik Lake, AK 99548–0033.	(907) 845–2212	(907) 845–2217	*chigniklakevillageadmin@bbna.com.*
Chignik Lake Village	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Chilkat Indian Village (Klukwan).	Carrie-Ann Durr, ICWA Worker.	HC 60 Box 2207, Haines, AK 99827.	(907) 767–5505, Ext. 3.	(907) 767–5408	*cdurr@chilkat-nsn.gov.*
Chilkoot Indian Association (Haines).	Georgiana Hotch, Family Caseworker; Barbara Dude, Family Services Administrator.	P.O. Box 624, Haines, AK 99827–0624; 320 W. Willoughby Ave., Suite 300, Juneau, AK 99801–1772.	(907) 766–2323, Ext. 9; (907) 463–7169.	(907) 766–2845; (907) 885–0032.	*ghotch@ccthita-nsn.org; icwamail@ccthita-nsn.org.*
Chinik Eskimo Community (aka Golovin).	Kirstie Ione, Tribal Family Coordinator.	P.O. Box 62019, Golovin, AK 99762–0019.	(907) 779–3489	(907) 779–2000	*kione@kawerak.org.*
Chinik Eskimo Community (aka Golovin).	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Chistochina (see Cheesh-na Tribe).					
Chitina, Native Village of.	Gyna Gordon, ICWA Advocate.	P.O. Box 31, Chitina, AK 99566.	(907) 823–2215	(907) 823–2285	*ggordonCTIVCicwa@outlook.com.*
Chuathbaluk, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Chuathbaluk Native Village of (Russian Mission, Kuskokwin).	Teresa Simeon-Hunter, ICWA Community Family Service Specialist.	P.O. Box CHU, Chuathbaluk, AK 99557.	(907) 467–4313	(907) 467–4113	*tshunter@avcp.org.*
Chuloonawick Native Village.	Roberta Murphy, President; Lois Isaac, Administrator.	P.O. Box 245, Emmonak, AK 99581.	(907) 949–1345	(907) 949–1346	*chuloonawick@gci.net.*
Circle Native Community.	Jessica Fields, Tribal Family Youth Specialist.	P.O. Box 89, Circle, AK 99733.	(907) 773–2822	(907) 773–2823	*jessica.fields@tananachiefs.org.*
Circle Native Community.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Clarks Point, Village of.	Danielle Aikins, Administrator.	P.O. Box 90, Clarks Point, AK 99569–0090.	(907) 236–1427	(907) 236–1428	*clarkspointadmin@bbna.com.*
Clarks Point, Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Copper Center (see Native Village of Kluti-Kaah).					
Cordova (see Eyak).					
Council, Native Village of.	Christy Schuneman, Tribal Family Coordinator.	P.O. Box 2050, Nome, AK 99762–2050.	(907) 443–4499	(907) 443–6433	*cschuneman@kawerak.org.*
Craig Tribal Association.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Craig Tribal Association.	Barbara Dude, Family Services Administrator.	320 W. Willoughby Ave., Suite 300, Juneau, AK 99801–1772.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.org.*
Crooked Creek, Village of.	Helen Macar, ICWA Community Family Service Specialist; Valerie Andrew, ICWA Director.	P.O. Box 69, Crooked Creek, AK 99575–0069; P.O. Box 219, Bethel, AK. 99559.	(907) 432–2231; (907) 543–8691.	(907) 432–2201; (907) 543–7644.	*hmacar@avcp.org; icwa2@avcp.org.*
Curyung Tribal Council (formerly the Native Village of Dillingham).	Deanna Baier, Case Worker ICWA.	P.O. Box 216, Dillingham, AK 99576–0216.	(907) 842–4508	(907) 842–4510	*dillinghamicwa@bbna.com.*
Curyung Tribal Council (formerly the Native Village of Dillingham).	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Deering, Native Village of.	Pearl Moto, ICWA Coordinator.	P.O. Box 36089, Deering, AK 99736–0089.	(907) 363–2229	(907) 363–2195	*drgicwa@gmail.com.*
Deering, Native Village of.	Jackie Hill, Director	P.O. Box 256, Kotzebue, AK 99752–0256.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Dillingham (see Curyung Tribal Council).					
Diomede (aka Inalik), Native Village of.	Celeste Menadelook, Tribal Family Coordinator.	P.O. Box 62019, Nome, AK 99762–0019.	(907) 779–2385	(907) 779–2386	*cmenadelook@kawerak.org.*
Diomede (aka Inalik), Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Dot Lake, Village of	Tracy Charles-Smith, President.	P.O. Box 70494, Fairbanks, AK 99701–0494.	(907) 347–1251	(907) 882–5558	*mwalleri@fairbanksaklaw.com.*
Douglas Indian Association.	Andrea Cadiente Laiti, Tribal Administrator.	811 West 12th Street, Juneau, AK 99801–1529.	(907) 364–2916	(907) 364–2917	*alaiti-dia@gci.net.*
Eagle, Native Village of.	Claire Ashley, Tribal Family Youth Specialist.	P.O. Box 19, Eagle, AK 99738.	(907) 547–2271	(907) 547–2318	*claire.ashley@tananachiefs.org.*
Eagle, Native Village of.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Edzeno (see Nikolai Village).					
Eek, Native Village of.	Lillian Cleveland, ICWA Community Family Service Specialist.	P.O. Box 63/89, Eek, AK 99578.	(907) 536–5572	(907) 536–5582	*lcleveland@avcp.org.*
Eek, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Egegik Village	Marcia Abalama, Case Worker ICWA.	P.O. Box 154, Egegik, AK 99579–0154.	(907) 233–2207	(907) 233–2312	*egegikicwa@bbna.com.*
Egegik Village	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Eklutna Native Village.	Dawn Harris, ICWA Worker.	26339 Eklutna Village Road, Chugiak, AK 99567.	(907) 688–6031	(907) 688–6021	*nve.socialservice@eklutna-nsn.gov.*
Ekuk, Native Village of.	Diane Folsom, Administrator.	P.O. Box 530, Dillingham, AK 99576–0530.	(907) 842–3842	(907) 233–3843	*ekukadmin@bbna.com.*
Ekuk, Native Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Ekwok, Native Village of (previously listed as Ekowok Village).	Richard King, Administrator.	P.O. Box 70, Ekwok, AK 99580.	(907) 464–3336	(907) 464–3378	*ekwokadmin@bbna.com.*
Ekwok, Native Village of (previously listed as Ekowok Village).	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Elim, Native Village of.	Joseph Murray, Jr., Tribal Family Coordinator.	P.O. Box 70, Elim, AK 99739–0070.	(907) 890–2457	(907) 890–2458	*jmurrayjr@kawerak.org.*
Elim, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Emmonak Village	Bambi Akers, Tribal Administrator; Charlene Striling, ICWA Dept.	P.O. Box 126, Emmonak, AK 99581–0216; P.O. Box 149, Alakanuk, AK 99554–0149.	(907) 949–1720; (907) 543–8691.	(907) 949–1384; (907) 543–7644.	*emktribal@gmail.com; icwa2@avcp.org.*
English Bay (see Native Village of Nanwalek).					
Evansville Village (aka Bettles Field).	Naomi Costello, Tribal Administrator.	P.O. Box 26087, Bettles Field, AK 99726.	(907) 692–5005	(907) 692–5006	*evanvillealaska@gmail.com.*
Evansville Village (aka Bettles Field).	Miriam A. Titus, Child Protection Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Eyak, Native Village of (Cordova).	Cheryl Eleshansky, ICWA Coordinator.	P.O. Box 1388, Cordova, AK 99574–1388.	(907) 424–7738; (907) 424–2238.	(907) 424–7809	*icwa@eyak-nsn.gov; cheryl.eleshansky@eyak-nsn.gov.*
False Pass, Native Village of.	Amanda McAdoo, ICWA Coordinator.	Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Fort Yukon, Native Village (See Gwichyaa Zhee Gwich'in).					
Fortuna Ledge (see Native Village of Marshall).					
Gakona, Native Village of.	Lisa Nicolai, ICWA Worker.	P.O. Box 102, Gakona, AK 99586–0102.	(907) 822–5777	(907) 822–5997	*gakonaprojects@gmail.com.*
Galena Village (aka Louden Village).	Katherine Dozette, Indian Child Welfare Act Director.	P.O. Box 244, Galena, AK 99741–0244.	(907) 656–2529	(907) 656–2491	*katherine.dozette@loudentribe.com.*
Gambell, Native Village of.	Dinah Iknokinok-Toolie, Tribal Family Coordinator; Heather Payenna, CFS Manager.	P.O. Box 90, Gambell, AK 99742–0090; P.O. Box 948, Nome, AK 99762–0948.	(907) 985–5118; (907) 443–4261.	(907) 985–5119; (907) 443–4601.	*Diknokinok-Toolie@kawerak.org; hpayenna@kawerak.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Georgetown, Native Village of.	Will Hartman, Tribal Administrator.	5313 Arctic Blvd., Suite 104, Anchorage, AK 99518–1111.	(907) 274–2195	(907) 274–2196	*Will.hartman@georgetowntc.com.*
Golovin (see Chinik Eskimo Community).					
Goodnews Bay, Native Village of.	Pauline Echuk, ICWA Community Family Service Specialist.	P.O. Box 138, Goodnews Bay, AK 99589–0138.	(907) 967–8929	(907) 967–8330	*pechuck@avcp.org.*
Goodnews Bay, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Grayling (see Organized Village of Grayling).					
Gulkana Village Council (previously listed as Gulkana Village).	Rachel Stratton Morse, Family Services Coordinator.	P.O. Box 254, Gakona, AK 99586–0254.	(907) 822–5363	(907) 822–3976	*icwa@gulkanacouncil.org.*
Gwichyaa Zhee Gwich'in (listed as Native Village of Fort Yukon).	Sandra Shepherd, Tribal Court Clerk.	P.O. Box 10, Fort Yukon, AK 99740–0010.	(907) 662–2581, Ext. 201.	(907) 662–3118	*Sandra.Shepherd@fortyukon.org.*
Gwichyaa Zhee Gwich'in (formerly Native Village of Fort Yukon).	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Haines (see Chilkoot Indian Association).					
Hamilton, Native Village of.	Tribal Administrator	P.O. Box 20248 Kotlik, AK 99620–0248.	.....	(907) 899–4290.	
Hamilton, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Healy Lake Village ..	Bertha Rickman	P.O. Box 74090, Fairbanks, AK 99707.	(907) 371–9361	(907) 876–5505	*Bertha.Rickman@tananachiefs.org.*
Healy Lake Village ..	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Holikachuk (see Grayling).					
Holy Cross Tribe	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Holy Cross Tribe (previously listed as the Holy Cross Village).	Rebecca Demientieff, Tribal Family Youth Specialist.	P.O. Box 191, Holy Cross, AK 99602.	(907) 476–7124, Ext. 105.	(907) 476–7132	*rebecca.demientieff@tananachiefs.org.*
Hoonah Indian Association.	Joyce Skaflestad, Human Development Department Manager/ICWA Caseworker.	P.O. Box 602, Hoonah, AK 99829–0602.	(907) 945–3545, Ext. 139.	(907) 945–3140	*jskaflestad@hiatribe.org.*
Hooper Bay, Native Village of.	Nastasia Ulroan, Teresa Nanuk, ICWA Community Family Service Specialist.	P.O. Box 62/69, Hooper Bay, AK 99604.	(907) 758–4006	(907) 758–4606	*nulroan@avcp.org; Tnanuk@avcp.org.*
Hooper Bay, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Hughes Village	Ella Sam, Tribal Family Youth Specialist.	P.O. Box 45029, Hughes, AK 99745.	(907) 889–2261/2239.	(907) 889–2252	*ella.sam@tananachiefs.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Hughes Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Huslia Village	Shandara Swatling, Tribal Family Youth Specialist.	P.O. Box 70, Huslia, AK 99746.	(907) 829–2202	(907) 829–2214	*shandara.swatling@tananachiefs.org.*
Huslia Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Hydaburg Cooperative Association.	Doreen Witwer, Tribal Administrator.	P.O. Box 349, Hydaburg, AK 99922–0349.	(907) 285–3666	(907) 285–3541	*HCATribe@gmail.com.*
Igiugig Village	Alicia Zackar, Social Services Director.	P.O. Box 4008, Igiugig, AK 99613–4008.	(907) 533–3211	(907) 533–3217	*alicia.s.zachar@gmail.com.*
Iliamna, Village of ...	Louise Anelon, Deputy Admin/ICWA Worker.	P.O. Box 286, Iliamna, AK 99606–0286.	(907) 571–1246	(907) 571–3539	*louise.anelon@iliamnavc.org.*
Inupiat Community of the Arctic Slope.	Marie H. Ahsoak, Social Services Director.	P.O. Box 934, Barrow, AK 99723–0934.	(907) 852–5923	(907) 852–5924	*social@inupiatgov.com; marie.ahsoak@inupiatgov.com.*
Iqurmuit Traditional Council (aka Russian Mission).	Katie Nick, ICWA Community Family Service Specialist.	P.O. Box 38/09, Russian Mission, AK 99657.	(907) 584–5594	(907) 584–5596	*knick@avcp.org.*
Iqurmuit Traditional Council (aka Russian Mission).	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Ivanoff Bay Tribe (previously listed as the Ivanoff Bay Tribe & Ivanoff Bay Village).	Nicole Cabrera, Administrator.	6407 Brayton Dr., Suite 201, Anchorage, AK 99507–2149.	(907) 522–2263	(907) 522–2363	*ivanoffbayadmin@bbna.com.*
Ivanoff Bay Tribe (previously listed as the Ivanoff Bay Tribe & Ivanoff Bay Village).	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Kaguyak Village	Alyssa Brenteson, Tribal Manager.	P.O. Box 5078, Akhiok, AK 99615–5078.	(907) 836–2231	.....	*kaguyak.tribal.council@gmail.com.*
Kake (see Organized Village of Kake).					
Kaktovik, Village of (aka Barter Island).	Joshua Stein, Director of Social Services.	P.O. Box 1232, Barrow, AK 99723–1232.	(907) 852–9374	(907) 852–2761	*joshua.stein@arcticslope.org.*
Kalskag, Village of (aka Upper Kalskag).	Administrator	P.O. Box 50, Upper Kalskag, AK 99607.	(907) 471–2296	(907) 471–2399.	
Kalskag, Village of (aka Upper Kalskag).	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Kaltag, Village of	Tribal President	P.O. Box 129, Kaltag, AK 99748.	(907) 534–2224	(907) 534–2264.	
Kaltag, Village of	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Kanatak, Native Village.	Shawn Shanigan, Administrator.	P.O. Box 876822, Wasilla, AK 99687–6822.	(907) 357–5991	(907) 357–5992	*kanatakadmin@bbna.com.*
Kanatak, Native Village.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*kanatak@mtaonline.net.*
Karluk, Native Village of.	Kristeen Reft, Tribal Clerk.	P.O. Box 22, Karluk, AK 99608.	(907) 241–2238	(907) 241–2213	*karlukiracouncil@aol.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Kashnumiut Tribe (see Chevak).					
Kasigluk Traditional Elders Council.					
Kassan (see Organized Village of Kasaan).					
Kenaitze Indian Tribe (see Chevak Native Village).					
Ketchikan Indian Corporation.	Lynn Quan, Social Services Director; Douglas J. Gass, ICWA Specialist.	201 Deermount St., Ketchikan, AK 99901–6649.	(907) 228–9327; (907) 228–9294.	(800) 378–0469	*lquan@kictribe.org; dgass@kictribe.org.*
Kiana, Native Village of.	Delores Barr, Tribe Director; Lorena Walker, ICWA Coordinator.	P.O. Box 69, Kiana, AK 99749–0069.	(907) 475–2109; (907) 475–2226.	(907) 475–2180; (907) 475–2266.	*tribedirector@katyaaq.org;icwa@katyaaq.org.*
King Cove (see Agdaagux Tribe of King Cove).					
King Island Native Community.	Heather Payenna, Tribal Family Coordinator.	P.O. Box 682, Nome, AK 99762–0682.	(907) 443–4497	(907) 443–8049	*hpayenna@kawerak.org.*
King Island Native Community.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
King Salmon Tribe ..	Tribal Administrator	P.O. Box 68, King Salmon, AK 99613–0068.	(907) 246–3553; (907) 246–3447.	(907) 246–3449.	
Kipnuk, Native Village of.	Vacant, ICWA Community Family Service Specialist.	P.O. Box 57, Kipnuk, AK 99614.	(907) 896–5430	(907) 896–5704.	
Kipnuk, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Kivalina, Native Village of.	Stanley Hawley, Administrator.	P.O. Box 50051, Kivalina, AK 99750.	(907) 645–2153	(907) 645–2193	*tribeadmin@kivaliniq.org.*
Kivalina, Native Village of.	Jackie Hill, Director	P.O. Box 256, Kotzebue, AK 99752–0256.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Klawock Cooperative Association.	Cynthia Mills, Family Caseworker II; Barbara Dude, Family Services Administrator.	P.O. Box 173, Klawock, AK 99925–0173; 320 W Willoughby Ave., Suite 300, Juneau, AK 99801–1772.	(907) 755–2326; (907) 463–7169.	(907) 885–0032; (907) 885–0032.	*icwamail@ccthita-nsn.org.*
Klukwan (see Chilkat Indian Village).					
Kluti-Kaah, Native Village of (aka Copper Center).	Arleen Lenard, ICWA Advocate.	P.O. Box H, Copper Center, AK 99573–0508.	(907) 822–5241, Ext. 2047.	(888) 959–2389	*alenard@crnative.org.*
Knik Tribe	Geraldine Nicoli-Ayonayon, ICWA Manager.	P.O. Box 871565, Wasilla, AK 99687–1565.	(907) 373–7991	(907) 373–2153	*gnayonayon@kniktribe.org.*
Kobuk, Native Village of.	Johnetta Horner, President.	P.O. Box 51039, Kobuk, AK 99751–0039.	(907) 948–2203	(907) 948–2123	*tribeadmin@laugvik.org.*
Kobuk, Native Village of.	Jackie Hill, Director	P.O. Box 256, Kotzebue, AK 99752–0256.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Kodiak, Native Village of (see Sun'aq Tribe of Kodiak).					
Kokhanok Village	Colleen Williams, Tribal Administrator.	P.O. Box 1007, Kokhanok, AK 99606–1007.	(907) 282–2202	(907) 282–2221	*kokhanokicwa@gmail.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Kokhanok Village	Mary Andrew, Caseworker.	P.O. Box 1007, Kokhanok, AK 99606.	(907) 282–2224	(907) 282–2221	*kokhanokicwa@bbna.com.*
Koliganek Village (see New Kolignanek Village Council).					
Kongiganak, Native Village of.	Joseph Mute, Tribal Administrator.	P.O. Box 5069, Kongiganak, AK 99545–5069.	(907) 557–5226/ 5225.	(907) 557–5224	*Kong.tribe@gmail.com.*
Kotlik, Village of	Anna V. Hunt, ICWA CFSS 1.	P.O. Box 20210, Kotlik, AK 99620–0210.	(907) 899–4459	(907) 899–4467	*AHunt@avcp.org.*
Kotlik, Village of	Charlene Striling, ICWA CFSS III.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Kotzebue, Native Village of.	Bibianna Scott, Tribal Family Services Director.	P.O. Box 296, Kotzebue, AK 99752–0296.	(907) 442–3467	(907) 442–4013	*bibianna.scott@qira.org.*
Koyuk, Native Village of.	Jenna Homekingkeo, Tribal Family Coordinator.	P.O. Box 53149, Koyuk, AK 99753–0149.	(907) 963–2215	(907) 963–2300	*jhomekingkeo@kawerak.org.*
Koyuk, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948 Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Koyukuk Native Village.	Rachel Lolnitz, Tribal Family Youth Specialist.	P.O. Box 109, Koyukuk, AK 99754.	(907) 927–2208	(907) 927–2221	*Rachel.Lolnitz@tananachiefs.org.*
Koyukuk Native Village.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Kwethluk (see Organized Village of Kwethluk).					
Kwigillingok, Native Village of.	Andrew Beaver, ICWA Program Director.	P.O. Box 90, Kwigillingok, AK 99622–0090.	(907) 588–8114, Ext. 121.	(907) 588–8429	*abeaver@kwigtribe.org.*
Kwinhagak, Native Village of (aka Quinhagak).	Minnie Mark, ICWA; Valerie Andrew, ICWA Director.	P.O. Box 149, Quinhagak, AK 99655–0149; P.O. Box 219, Bethel, AK 99559.	(907) 556–8393, (907) 543–8691.	(907) 556–8166; (907) 556–8810; (907) 543–7644.	*m.mark@kwinhagak.org; ICWA2@AVCP.org.*
Larsen Bay, Native Village of.	Cassie Keplinger, Family Services Coordinator.	3449 Rezanof Drive East, Kodiak, AK 99615–6952.	(907) 486–9882	(907) 486–4829	*Cassie.keplinger@kodiakhealthcare.org.*
Lesnoi Village (see Tangirnaq aka Woody Island).					
Levelock Village	Sam Wassillie, Administrator.	P.O. Box 70, Levelock, AK 99625.	(907) 287–3030	(907) 287–3032	*levelockadmin@bbna.com.*
Levelock Village	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Lime Village	Jennifer John, Tribal Administrator.	P.O. Box LVD—Lime Village, AK 99627.			
Lime Village	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Louden (see Galena).					
Lower Kalskag (See Lower Kalskag).					
Lower Kalskag, Village of.	Nastasia Evan, ICWA Community Family Service Specialist.	P.O. Box 27 Lower Kalskag, AK 99626–0027.	(907) 471–2412	(907) 471–2378	*nevan@avcp.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Lower Kalskag, Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*lowerklgta@gmail.com.*
Manley Hot Springs Village.	Elizabeth Woods, Tribal Administrator.	P.O. Box 105, Manley Hot Springs, AK 99756.	(907) 672–3177; (907) 672–3180.	(907) 672–3200	*Emwoods57@gmail.com.*
Manley Hot Springs Village.	Miriam A. Titus, Child Protection Program Manager; Caro Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Manokotak Village ...	Diana Gamechuk, Caseworker ICWA.	P.O. Box 169, Manokotak, AK 99628.	(907) 289–2074	(907) 289–1235	*manokotakiccwa@bbna.com.*
Manokotak Village ...	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Marshall, Native Village of.	Robert Pitka, ICWA Community Family Service Specialist.	P.O. Box 110, Marshall, AK 99585–0110.	(907) 679–6302	(907) 676–6187	*rpitka@avcp.org.*
Marshall, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Mary's Igloo, Native Village of.	Dolly Kugzruk, Tribal Family Coordinator.	P.O. Box 629, Teller, AK 99778–0629.	(907) 642–2185	(907) 642–3000	*dkugzruk@kawerak.org.*
Mary's Igloo, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
McGrath Native Village.	Gina McKindy, Tribal Administrator.	P.O. Box 134 McGrath, AK 99627.	(907) 524–3023, Ext. 102.	(907) 524–3899	*Gina.mckindy@tananachiefs.org.*
McGrath Native Village.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Mekoryuk, Native Village of.	Melanie Shavings, ICWA Worker.	P.O. Box 66, Mekoryuk, AK 99630.	(907) 827–8827	(907) 827–8133	*melanie.s@mekoryuktc.org.*
Mekoryuk, Native Village of.	Edward Kiokun, Tribal President.	P.O. Box 66, Mekoryuk, AK 99630.	(907) 827–8828	(907) 827–8133	*Edward.k@mekoyuktc.org.*
Mentasta Traditional Council.	Carol Lee Evans, ICWA Coordinator.	P.O. Box 6019, Mentasta Lake, AK 99780–6027.	(907) 291–2319, Ext. 9.	(907) 291–2305	*mentasta.icwa@gmail.com.*
Metlakatla Indian Community.	Jacqueline Wilson, Darlene Fawcett, ICWA/Social Services Department.	P.O. Box 8, Metlakatla, AK 99926.	(907) 886–6914	(907) 886–6913.	
Minto, Native Village of.	Lou Ann Williams, Tribal Family Youth Specialist.	P.O. Box 26, Minto, AK 99758.	(907) 798–7007	(907) 798–7008	*lou.williams@tananachiefs.org.*
Minto, Native Village of.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Mountain Village: *see Asa'carsarmiut.*					
Naknek Native Village.	Judy Jo Matson, ICWA Worker.	P.O. Box 210, Naknek, AK 99633–0210.	(907) 246–4210	(907) 246–3563	*nnvc.judyjo@gmail.com.*
Nanwalek, Native Village of.	Katrina Berestoff, ICWA Coordinator.	P.O. Box 8028, Nanwalek, AK 99603–8028.	(907) 281–2274, Ext. 108.	(907) 281–2252	*nanwalekicwa@gmail.com.*
Napaimute, Native Village of.	Tribal Administrator	P.O. Box 1301, Bethel, AK 99559–1301.	(907) 538–2821; (907) 548–2817.	(907) 543–7644	*napaimute@gci.net.*
Napaimute, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Napakiak, Native Village of.	Nicole Ayagalria, ICWA Community Family Service Specialist.	P.O. Box 34114/ 34069, Napakiak, AK 99634.	(907) 589–2815	(907) 589–2814	*NAyagalria@avcp.org.*
Napakiak, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Napaskiak, Native Village of.	Elizabeth Steven, ICWA Community Family Service Specialist.	P.O. Box 6009, Napaskiak, AK 99559–6009.	(907) 737–7364	(907) 737–7039	*esteven@avcp.org.*
Napaskiak, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Nelson Lagoon, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Nenana Native Association.	Christine Babcock, Tribal Family Youth Specialist.	P.O. Box 369, Nenana, AK 99760.	(907) 832–5461	(907) 832–5447	*nenanatfys@gmail.com.*
Nenana Native Association.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
New Koliganek Village Council.	Mary Lou Nelson, Administrator.	P.O. Box 5057, Koliganek, AK 99576–5057.	(907) 596–3434	(907) 596–3462	*koliganekadmin@bbna.com.*
New Koliganek Village Council.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
New Stuyahok Village.	Faith Andrew, Case Worker ICWA.	P.O. Box 49, New Stuyahok, AK 99636.	(907) 693–3102	(907) 693–3179	*newstuyahokicwa@bbna.com.*
New Stuyahok Village.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Newhalen Village	Maxine Wassillie, ICWA Worker.	P.O. Box 207, Newhalen, AK 99606–0207.	(907) 571–1410	(907) 571–1537	*maxinewassillie@newhalentribal.com.*
Newhalen Village	Joanne Wassillie, Administrator.	P.O. Box 207, Newhalen, AK 99606–0207.	(907) 571–1317	(907) 571–1537	*joannewassillie@newhalentribal.com.*
Newtok Village	Andrew John, Tribal Administrator.	P.O. Box 5596, Newtok, AK 99559–5596.	(907) 237–2202	(907) 237–2210	*wwt10nnc@gmail.com.*
Nightmute, Native Village of.	Tribal Administrator; Valerie Andrew, ICWA Director.	P.O. Box 90021, Nightmute, AK 99690–0021; P.O. Box 219, Bethel, AK 99559–0219.	(907) 647–6215; (907) 543–8691.	(907) 647–6112; (907) 543–7644.	*ICWA2@AVCP.org.*
Nikolai Village (aka Edzeno).	Balassa Alexie, Tribal Family Youth Specialist.	P.O. Box 9107, Nikolai, AK, 99691.	(907) 293–2210	(907) 293–2216	*nevc.tyfs@outlook.com.*
Nikolai Village (aka Edzeno).	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Nikolski, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Ninilchik Village	Bettyann Steciw, ICWA Specialist.	P.O. Box 39444, Ninilchik, AK 99639–0444.	(907) 567–3313	(907) 567–3354	*bettyann@ninilchiktribe-nsn.gov.*
Noatak, Native Village of.	Edna R. Bailey, ICWA Coordinator.	P.O. Box 89, Noatak, AK 99761.	(907) 485–2030	(907) 485–2137	*icwa@nautaaq.org.*
Nome Eskimo Community.	Lola Stepetin, Family Services Director.	561 E. 36th Avenue Suite 102, Anchorage, Alaska 99503–4137.	(907) 339–8623	(907) 222–2996	*lola.stepetin@necalaska.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Nondalton Village	William Evanoff, President.	P.O. Box 49, Nondalton, AK 99640.	(907) 294–2257	(907) 294–2271.	
Noorvik Native Community.	Nellie Ballot, ICWA Coordinator.	P.O. Box 209, Noorvik, AK, 99763–0209.	(907) 636–2144	(907) 636–2284	*icwa@nuurvik.org.*
Northway Village	Tasha Demit, ICWA Worker.	P.O. Box 516, Northway, AK 99764.	(907) 778–2311	(907) 778–2220	*icwa@aptalaska.net.*
Nuiqsut, Native Village of.	Joshua Stein, Director of Social Services.	P.O. Box 1232, Barrow, AK 99723–1232.	(907) 852–9374	(907) 852–2761	*joshua.stein@arcticslope.org.*
Nulato Village	Sharon Agnes, Director of Human Services.	P.O. Box 65049, Nulato, AK 99765–0049.	(907) 898–2339	(907) 898–2207	*sharon.agnes62@outlook.com.*
Nunakauyarmiut Tribe (formerly Toksook Bay Native Village).	Anna Wiseman, ICWA Community Family Service Specialist.	P.O. Box 37048, Toksook Bay, AK 99637.	(907) 427–7825	(907) 427–7824	*awiseman@avcp.org.*
Nunakauyarmiut Tribe (formerly Toksook Bay Native Village).	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Nunam Iqua, Native Village of (previously listed as Native Village of Sheldon's Point).	Darlene Pete, Tribal Administrator.	P.O. Box 27, Nunam Iqua, AK 99666–0027.	(907) 498–4184	(907) 498–4185	*nunamtribe@gmail.com.*
Nunam Iqua, Native Village of (previously listed as Native Village of Sheldon's Point).	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Nunapitchuk, Native Village of.	Stephanie Alexie-Stewart, ICWA.	P.O. Box 104, Nunapitchuk, AK 99641–0104.	(907) 527–5731	(907) 527–5740	*nunap.icwa@gmail.com.*
Ohogamiut, Native Village of.	Tribal Administrator	P.O. Box 49, Marshall, AK 99585.	(907) 679–6517	(907) 679–6516	*admin@ohogtc.net.*
Ohogamiut, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Alutiiq Tribe of Old Harbor Village (previously listed as Native Village of Old Harbor and Village of Old Harbor).	Tamara Swenson, ICWA Advocate.	P.O. Box 62, Old Harbor, AK 99643.	(907) 286–2215	(907) 286–2350	*tswenson@alutiiqtribe.org.*
Organized Village of Grayling (aka Holikachuk).	Johanna Hamilton, Tribal Family Youth Specialist.	P.O. Box 49, Grayling, AK 99590.	(907) 453–5142	(907) 453–5146	*Johanna.Hamilton@tananachiefs.org.*
Organized Village of Grayling (aka Holikachuk).	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Organized Village of Kake.	Nathalie Austin, Social Services Director.	P.O. Box 316, Kake, AK 99830–0316.	(907) 785–6471, Ext. 116.	(907) 785–4902	*icwa@kake-nsn.gov.*
Organized Village of Kasaan.	Cynthia Mills, Family Caseworker II; Barbara Dude, Family Services Administrator.	P.O. Box 173, Klawock, AK 99925; 320 W. Willoughby Ave., Suite 300, Juneau, AK 99801–1772.	(907) 755–2326; (907) 463–7169.	(907) 885–0032	*icwamail@ccthita-nsn.org.*
Organized Village of Kwethluk.	Willie David, ICWA Coordinator.	P.O. Box 130, Kwethluk, AK 99621–0130.	(907) 757–6714; (907) 757–6715.	(907) 757–6328	*ovkicwa@gmail.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Organized Village of Saxman.	Patti Green, Family Caseworker; Barbara Dude, Family Services Administrator.	Route 2, Box 2, Ketchikan, AK 99901; 320 W. Willoughby Ave., Suite 300, Juneau, AK 99801–1772.	(907) 228–6984; (907) 463–7169.	(907) 885–0032	*icwamail@ccthita-nsn.org.*
Orutsararmiut Traditional Native Council ak Bethel (previously listed as Orutsararmuit Native Village).	Sophie Jenkins, Social Services Director.	P.O. Box 927, Bethel, AK 99559–0927.	(907) 543–2608	(907) 543–2639	*sjenkins@nativecouncil.org.*
Oscarville Traditional Village.	Andrew J. Larson, Jr., ICWA Community Family Service Specialist.	P.O. Box 6129, Oscarville, AK 99559.	(907) 737–7100	(907) 737–7101	*alarson@avcp.org.*
Oscarville Traditional Village.	Valerie Andrew, ICWA Director.	P.O. Box 6129, Oscarville, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Ouzinkie, Native Village of.	Cassie Keplinger, Family Services Coordinator.	3449 Rezanof Drive East, Kodiak, AK 99615–6952.	(907) 486–9882	(907) 486–4829	*cassie.keplinger@kodiakhealthcare.org.*
Paimiut, Native Village of.	Colleen Timmer, Tribal Administrator.	P.O. Box 240084, Anchorage, AK 99524–0084.	(907) 561–0304	(907) 561–0305	*paimiut@nvptc.org.*
Pauloff Harbor Village.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Pedro Bay Village ...	Verna Kolyaha, Program Services.	P.O. Box 47020, Pedro Bay, AK 99647–0020.	(907) 850–2341	(907) 850–2232	*vjkolyha@pedrobay.com.*
Perryville, Native Village of.	Bernice O'Domin, Case Worker, ICWA.	P.O. Box 97, Perryville, AK 99648.	(907) 853–2242	(907) 853–2229	*perryvilleicwa@bbna.com.*
Perryville, Native Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Petersburg Indian Association.	Jeanette Ness, ICWA Caseworker.	P.O. Box 1418, Petersburg, AK 99833–1418.	(907) 772–3636	(907) 772–3637	*icwa@piatribal.org.*
Pilot Point, Native Village of.	Suzanne Evanoff, Administrator.	P.O. Box 449, Pilot Point, AK 99649–0449.	(907) 797–2208	(907) 797–2258	*pilotpointadmin@bbna.com.*
Pilot Point, Native Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Pilot Station Traditional Village.	Olga Xavier, ICWA Worker.	P.O. Box 5119, Pilot Station, AK 99650–5119.	(907) 549–3550	(907) 549–3551	*oxavier@avcp.org.*
Pilot Station Traditional Village.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Pitka's Point, Native Village of.	Vacant, ICWA Community Family Service Specialist.	P.O. Box 127, St. Mary's, AK 99658.	(907) 438–2017	(907) 438–2596.	
Pitka's Point, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Platinum Traditional Village.	Lou Adams, Tribal Administrator.	P.O. Box 8, Platinum, AK 99651.	(907) 979–8220	(907) 979–8178.	
Platinum Traditional Village.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–7461	(907) 543–7644	*ICWA2@AVCP.org.*
Point Hope, Native Village of.	Mabel Oktollik, Family/ICWA Case Worker; Qalayauq Frankson, Assistant Family/ICWA Case Worker.	P.O. Box 109, Point Hope, AK 99766–0109.	(907) 368–2133	(907) 368–2332	*family.caseworker@tikigaq.com; assistant.caseworker@tikigaq.com.*
Point Lay, Native Village of.	Marie H. Ahsoak, Social Services Director.	P.O. Box 934, Barrow, AK 99723–0934.	(907) 852–5923	(907) 852–5924	*social@inupiatgov.com; marie.ahsoak@inupiatgov.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Port Graham, Native Village of.	Patrick Norman, Chief & Acting ICWA Worker.	P.O. Box 5510, Port Graham, AK 99603–5510.	(907) 284–2227	(907) 284–2222	*vivian@portgraham.org.*
Port Heiden, Native Village of.	Amber Christensen-Fox, Tribal Children Service Worker.	2200 James Street, Port Heiden, AK 99549.	(907) 837–2296	(907) 837–2297	*amber@portheidenalaska.com.*
Native Village Port Lions.	Charlea Kewan, Family Services/ICWA.	P.O. Box 69, Port Lions, AK 99550–0069.	(907) 454–2234	(907) 454–2434	*familyservices@portlionstribe.org; administrator@portlionstribe.org.*
Portage Creek Village (aka Ohgensakale).	Mary Ann Johnson, Administrator.	1762 Abbott Road, Anchorage, AK 99507–3443.	(907) 277–1105	(907) 277–1104	*portagecreekadmin@bbna.com.*
Portage Creek Village (aka Ohgensakale).	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Qagan Tayaguyngin Tribe of Sand Point Village.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Qawalangin Tribe of Unalaska.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Qissunaimut Tribe (see Chevak Native Village).					
Quinhagak (see Kwinhagak).					
Rampart Village	Michelle Woods, Tribal Family Youth Specialist.	P.O. Box 67029, Rampart, AK 99767.	(907) 358–3312	(907) 358–3115	*rvc.irr@gmail.com.*
Rampart Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Village of Red Devil	Tribal Administrator	P.O. Box 27, Red Devil, AK 99656–0027.			
Village of Red Devil	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Ruby, Native Village of.	Rachael Kangas, Tribal Family Youth Specialist.	P.O. Box 117, Ruby, AK 99768.	(907) 468–4400; (907) 468–4479.	(907) 468–4500.	
Ruby, Native Village of.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Russian Mission (see Iqurmuit Native Village).	Katie Nick, ICWA Worker; Valerie Andrew, ICWA Director.	P.O. Box 38, Russian Mission, AK 99657; P.O. Box 219, Bethel, AK 99559.	(907) 584–5594; (907) 543–8691.	(907) 584–5596; (907) 543–7644.	
Saint George, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 E. International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Saint Michael, Native Village of.	Shirley Martin, Tribal Family Coordinator; Heather Payenna, CFS Manager.	P.O. Box 59050, St. Michael, AK 99659–0050; P.O. Box 948, Nome, AK 99762–0948.	(907) 923–2546; (907) 443–4261.	(907) 923–2474; (907) 443–4601.	*icwa@apiai.org; hpayenna@kawerak.org.*
Salamatoff Tribe (previously listed as the Village of Salamatoff).	Katie Watkins, Division Director, Human & Community Services.	P.O. Box 988, Kenai, AK 99611–0988.	(907) 335–7600	(907) 202–8359	*kwatkins@kenaitze.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Sand Point (see Qagan Tayaguyngin Tribe of Sand Point Village).					
Savoonga, Native Village of.	Ruthie Okoomealingok, Tribal Family Coordinator.	P.O. Box 34, Savoonga, AK 99769–0034.	(907) 984–6758	(907) 984–6759	*rokoomealingok@kawerak.org.*
Savoonga, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Saxman (see Organized Village of Saxman).					
Scammon Bay, Native Village of.	Michelle Aguchak, ICWA Community Family Service Specialist.	P.O. Box 110, Scammon Bay, AK 99662–0110.	(907) 558–5078	(907) 558–5079	*makerelrea@avcp.org.*
Scammon Bay, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Selawik, Native Village of.	Trina L. Walton, ICWA Coordinator.	P.O. Box 59, Selawik, AK 99770.	(907) 484–2165	(907) 424–2001	*trinawalton1@gmail.com.*
Selawik, Native Village of.	Jackie Hill, Director	P.O. Box 256, Kotzebue, AK 99752–0256.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Seldovia Village Tribe.	Shannon Custer, ICWA Representative.	P.O. Drawer L, Seldovia, AK 99663.	(907) 234–7898 or (907) 435–3252.	(907) 234–7865	*scuster@svt.org.*
Shageluk Native Village.	Alana Notti, Tribal Family Youth Specialist.	P.O. Box 109, Shageluk, AK 99665.	(907) 473–8229	(907) 473–8275	*alana.notti@tananachiefs.org.*
Shageluk Native Village.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Shaktoolik, Native Village of.	Katelynn Evan, Tribal Family Coordinator.	P.O. Box 100, Shaktoolik, AK 99771–0100.	(907) 955–2444	(907) 955–2443	*kevan@kawerak.org.*
Shaktoolik, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Sheldon's Point (see Nunam Iqua).					
Shishmaref, Native Village of.	Karla Nayokpuk, Tribal Family Coordinator.	P.O. Box 72110, Shishmaref, AK 99772–0110.	(907) 649–3078	(907) 649–2278	*knayokpuk@kawerak.org.*
Shishmaref, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Shungnak, Native Village of.	Glenda Douglas, Administrator.	P.O. Box 64, Shungnak, AK 99773.	(907) 437–2163	(907) 437–2183	*tribeadmin@issingnak.org; icwa@issingnak.org.*
Shungnak, Native Village of.	Jackie Hill, Director	P.O. Box 256, Kotzebue, AK 99752–0256.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Sitka Tribe of Alaska	Melonie Boord, Social Services Director.	456 Katlian Street, Sitka, AK 99835–7505.	(907) 747–7221	(907) 747–7643	*melonie.boord@sitkatribe-nsn.gov.*
Skagway Village	Melissa Alley, Family & Youth Service Worker.	P.O. Box 1157, Skagway, AK 99840–1157.	(907) 983–4068	(907) 983–3068	*melissa@skagwaytraditional.org.*
Sleetmute, Village of	Cheryl Mellick, ICWA Community Family Service Specialist; Valerie Andrew, ICWA Director.	P.O. Box 109, Sleetmute, AK 99668.	(907) 449–4259; (907) 543–8691.	(907) 449–4265; (907) 543–7644.	*cmellick@avcp.org; ICWA2@AVCP.org.*
Solomon, Village of	Kirsten Timbers, President.	P.O. Box 2053, Nome, AK 99762–2053.	(907) 443–4985	(907) 443–5189	*tc.sol@kawerak.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
South Naknek Village.	Lorianne Zimin, ICWA Coordinator.	2521 E. Mountain Village Dr. Ste. B PMB 388, Wasilla, AK 99654–7377.	(907) 631–3648	(907) 631–0949.	
St. George, Native Village of.					
St. Mary's: *see Algaaciq.*					
St. Mary's Igloo: *see Native Village of Teller.*					
St. Michael, Native Village of.	Shirley Martin, Tribal Family Coordinator.	P.O. Box 59050, St. Michael, AK 99659–0050.	(907) 923–2546	(907) 923–2474	*smartin@kawerak.org.*
St. Michael, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Pribilof Islands Aleut Community of Saint Paul & Saint George Islands.	Charlene Naulty, Director.	2050 Venia Minor Road, P.O. Box 86 St. Paul Island, AK 99660.	(907) 546–3200	(907) 546–3254	*icwa@aleut.com.*
Stebbins Community Association.	Stacey Matthias, Tribal Family Coordinator.	P.O. Box 71002, Stebbins, AK 99761–0002.	(907) 934–2334	(907) 934–2675	*smatthias@kawerak.org.*
Stebbins Community Association.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Stevens, Native Village of.	Cheryl Mayo-Kriska, ICWA Worker; Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	P.O. Box 71372, Stevens Village, AK 99774; 122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 328–8599; (907) 452–8251, Ext. 3659.	(907) 452–5036; (907) 459–3984.	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Village of Stony River.	Alyssa Willis, ICWA Community Family Service Specialist.	P.O. Box SRV, Stony River, AK 99557.	(907) 537–3258	(907) 537–3254	*awillis@avcp.org.*
Village of Stony River.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Sun'aq Tribe of Kodiak.	Linda Resoff, Social Services Director.	312 West Marine Way, Kodiak, AK 99615–6396.	(907) 486–0620	(907) 486–0624	*socialservices@sunaq.org.*
Takotna Village	Lynn Goods, Tribal Administrator.	P.O. Box 7529, Takotna, AK 99675.	(907) 298–2212	(907) 298–2314	*TakotnaTribalCouncil@gmail.com.*
Takotna Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Tanacross, Native Village of.	Colleen Denny, Tribal Family Youth Specialist.	P.O. Box 76009, Tanacross, AK 99776.	(907) 883–5024	(907) 883–4497.	
Tanacross, Native Village of.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Tanana, Native Village of.	Donna May Folger, ICWA Manager.	Box 130, Tanana, AK 99777.	(907) 366–1025; (907) 366–7170.	(907) 366–7246	*tananatyfs@gmail.com.*
Tanana, Native Village of.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Tangirnaq (Lesnoi Village aka Woody Island).	Gordon Pullar, Jr., President.	3449 Rezanof Drive East, Kodiak, AK 99615–6952.	(907) 486–9872	(907) 486–4829	*info@woodyisland.com.*
Tatitlek, Native Village of.	Angelique Gregorieff, Tribal Administrator Assistant.	P.O. Box 171, Tatitlek, AK 99677.	(907) 325–2311	(907) 325–2289.	

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Tazlina, Native Village of.	Donna Renard, ICWA Worker.	P.O. Box 87, Glennallen, AK 99588–0087.	(907) 822–4375	(907) 822–5865	*asst.tazlina@cvinternet.net.*
Telida Village	Edward Ticknor, Tribal Family Youth Specialist.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 293–2642	(907) 293–2643.	
Telida Village	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Teller, Native Village of.	Dolly Kugzruk, Tribal Family Coordinator.	P.O. Box 629, Teller, AK 99778–0629.	(907) 642–2185	(907) 642–3000	dkugzruk@kawerak.org.
Teller, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Tetlin, Native Village of.	Nettie Warbelow, Tribal Family Youth Specialist.	P.O. Box 797, Tok, AK 99780.	(907) 378–3608	(907) 883–1269	*nwarbelow@acsalaska.net.*
Tetlin, Native Village of.	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Tlingit & Haida Indian Tribes of Alaska (see Central Council Tlingit and Haida Indian Tribes).					
Togiak, Traditional Village of.	Emma Wasillie, Case Worker, ICWA.	P.O. Box 310, Togiak, AK 99678–0310.	(907) 493–5431	(907) 493–5734	*togiakicwa@bbna.com.*
Togiak, Traditional Village of.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Toksook Bay (see Nunakauyarmiut Tribe).					
Tuluksak Native Community.	Laura Kashatok, ICWA Community Family Service Specialist.	P.O. Box 47, Tuluksak, AK 99679.	(907) 695–6902	(907) 695–6903.	
Tuluksak Native Community.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644.	
Tuntutuliak, Native Village of.	Gwendolynn Charlie, ICWA Community Family Service Specialist.	P.O. Box 8086, Tuntutuliak, AK 99680–8086.	(907) 256–2311	(907) 256–2080	*Gcharlie@avcp.org.*
Tuntutuliak, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Tununak, Native Village of.	Adeline Lincoln, ICWA Community Family Service Specialist.	P.O. Box 77, Tununak, AK 99681–0077.	(907) 652–6220	(907) 652–6011	*ALincoln@avcp.org.*
Tununak, Native Village of.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Twin Hills Village Council.	Beverly Cano, Administrator.	P.O. Box 4061, Twin Hills, AK 99576–4061.	(907) 525–4821	(907) 525–4822	*twinhillsadmin@bbna.com.*
Twin Hills Village Council.	Crystal Nixon-Luckhurst, Children's Services Division Manager.	P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*cnixon@bbna.com.*
Tyonek, Native Village of.	Arthur Standifer, Tribal Child Welfare Worker.	P.O. Box 82009, Tyonek, AK 99682–0009.	(907) 583–2209	(907) 583–2219	*tyonekicwa@gmail.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Ugashik Village	Steven Alvarez, Tribal Administrator.	2525 Blueberry Road, Suite 205, Anchorage, AK 99503–2647.	(907) 338–7611; (907) 338–7694.	(907) 338–7659	*manager@ugashikvillage.com.*
Umkumiut Native Village.	Tribal Administrator	P.O. Box 8086, Nightmute, AK 99690.	(907) 647–6145	(907) 647–6146.	
Umkumiut Native Village.	Valerie Andrew, ICWA Director.	P.O. Box 219, Bethel, AK 99559–0219.	(907) 543–8691	(907) 543–7644	*ICWA2@AVCP.org.*
Unalakleet, Native Village of.	Angela Nashalook, ICWA Caseworker.	P.O. Box 357, Unalakleet, AK 99684–0357.	(907) 624–3622	(907) 624–5104	*tfc.unk@unkira.org.*
Unalaska (see Qawalangin Tribe of Unalaska).					
Unga, Native Village of.	Amanda McAdoo, ICWA Coordinator.	1131 East International Airport Road, Anchorage, AK 99518–1408.	(907) 276–2700	(907) 222–9735	*icwa@apiai.org.*
Upper Kalskag Native Village (see Kalskag).					
Village of Venetie	Larry Williams, Sr., ICWA Worker.	P.O. Box 81080, Venetie, AK 99781.	(907) 849–8454; (907) 849–8212.	(907) 849–8216	*LarryWilliamsSenior.2016@gmail.com.*
Village of Venetie	Miriam A. Titus, Child Protection Program Manager; Carol Rose, ICWA Advocate.	122 First Avenue, Suite 600, Fairbanks, AK 99701–4899.	(907) 452–8251, Ext. 3659.	(907) 459–3984	*miriam.titus@tananachiefs.org; carol.rose@tananachiefs.org.*
Village of Wainwright.	Joshua Stein, Director of Social Services.	P.O. Box 1232, Barrow, AK 99723–1232.	(907) 852–9374	(907) 852–2761	*joshua.stein@arcticslope.org.*
Wales, Native Village of.	Joanne Keyes, Tribal Family Coordinator.	P.O. Box 549, Wales, AK 99783–0549.	(907) 644–2185	(907) 644–3983	*jkeyes@kawerak.org.*
Wales, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
White Mountain, Native Village of.	Carol Smith, Tribal Family Coordinator.	P.O. Box 84090, White Mountain, AK 99784–0090.	(907) 638–2008	(907) 638–2009	*csmith@kawerak.org.*
White Mountain, Native Village of.	Heather Payenna, CFS Manager.	P.O. Box 948, Nome, AK 99762–0948.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Woody Island (see Tangirnaq Native Village).					
Wrangell Cooperative Association.	Solvay Gillen, Family Caseworker; Barbara Dude, Family Services Administrator.	P.O. Box 1198, Wrangell, AK 99929–1198; 320 W. Willoughby Ave., Suite 300, Juneau, AK 99801.	(907) 874–3482; (907) 463–7169.	(907) 885–0032	*icwamail@ccthita-nsn.org.*
Yakutat Tlingit Tribe	Penney James, Human Services Director.	P.O. Box 387, Yakutat, AK 99689–0387.	(907) 784–3368	(907) 784–3664	*pjames@ytttribe.org.*
Yupiit of Andreafski	Geraldine Beans, ICWA Director.	P.O. Box 88, St. Mary's, AK 99658–0088.	(907) 438–2572	(907) 438–2573	*andreafski.icwa@gmail.com.*

2. Eastern Region

Eastern Regional Director, 545 Marriott Drive, Suite 700, Nashville, TN 37214; Phone: (615) 546–6500; Fax: (615) 564–6701.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Aroostook Band of Micmac Indians.	Luke Joseph, ICWA Director.	7 Northern Road, Presque Isle, ME 04769.	(207) 764–1972	(207) 764–7667	*ljoseph@micmac-nsn.gov.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Catawba Indian Nation of South Carolina.	Jessica Grant, Program Manager.	996 Avenue of Nations, Rock Hill, SC 29730.	(803) 366–4792	(803) 325–1242	*jessica.grant@catawbaindian.net.*
Cayuga Nation of New York.	Sharon Leroy, Executor.	P.O. Box 803, Seneca Falls, NY 13148.	(315) 568–0750	(315) 568–0752	*sharon.leroy@cayuganation-nsn.gov.*
Chickahominy Indian Tribe.	Martha N. Adkins, ICWA Coordinator.	P.O. Box 184, King William, VA 23087.	(804) 829–2027		
Chickahominy Indians-Eastern Division.	Gene W. Adams, Chief.	8200 Lott Cary Road, Providence Forge, VA 23140.	(808) 966–7815		
Chitimacha Tribe of Louisiana.	Karen Matthews, Director of Health & Human Services.	P.O. Box 640, Charenton, LA 70523.	(337) 923–7000	(337) 923–2475	*karen@chitimacha.gov.*
Coushatta Indian Tribe.	Rayne Langley, Social Service Interim Director.	1984 CC Bel RD, Elton, LA 70532.	(337) 584–1433 Ext. 1437.	(337) 584–1433	*rlangley;@coushattatribela.org.*
Eastern Band of Cherokee Indians.	Jenny Bean, Family Safety Supervisor.	P.O. Box 666, Cherokee, NC 28719.	(828) 359–6149	(828) 359–0216	*jennbean@nc-cherokee.com.*
Houlton Band of Maliseet Indians.	Lori Jewell, LMSW/cc, Indian Child Welfare Director.	13–2 Clover Court, Houlton, ME 04730.	(207) 532–7260; (207) 694–0213; Cell: (207) 538—2266.	(207) 532–7287	*ljewell@maliseets.com.*
Jena Band of Choctaw Indians.	Mona Maxwell, Social Services Director.	P.O. Box 14, Jena, LA 71342.	(318) 992–1169	(318) 992–1192	*mmaxwell@jenachoctaw.org.*
Mashantucket Pequot Tribal Nation.	Valerie Burgess, Director Child Protective Services.	P.O. Box 3313, Mashantucket, CT 06338.	(860) 396–2007	(860) 396–2144	*vburgess@mptn-nsn.gov.*
Miccosukee Tribe of Indians of Florida.	Jennifer Prieto, Social Services Director.	P.O. Box 440021, Tamiami Station, Miami, FL 33144.	(305) 223–8380	(305) 894–5232	*jenniferp@miccosukeetribe.com.*
Mississippi Band of Choctaw Indians.	Jessica Martinez, ICWA Coordinator.	P.O. Box 6258, Choctaw, MS 39350.	(601) 656–4507	(601) 656–1357	*jessica.martinez@choctaw.org.*
Mohegan Indian Tribe.	Irene Miller, Director of Family Services.	13 Crow Hill Road, Uncasville, CT 06382.	(860) 862–6236	(860) 862–6324	*imiller@moheganmail.com.*
Monacan Indian Nation.	Dean Brantham, ICWA Coordinator.	P.O. Box 1136, Madison Heights, VA 24572.	(434) 946–0389	.....	
Nansemond Indian Tribe.	Sam Bass, ICWA Coordinator.	1001 Pembroke Lane, Suffolk, VA 23434.	.....	.....	*samflyingeagle@yahoo.com.*
Narragansett Indian Tribe.	Wenonah Harris, Director, Tribal Child Advocate.	4375B South County Trail or P.O. Box 268, Charlestown, RI 02813.	(401) 824–9034; (401) 364–1100 Ext. 233 or 203.	(401) 364–1104	*Wenonah@nithpo.com.*
Oneida Indian Nation.	Kim Jacobs, Nation Clerk.	Box 1 Vernon, NY 13476.	(315) 829–8337	(315) 829–8392	*kjacobs@oneida-nation.org.*
Onondaga Nation	Cissy Elm, Director	104 W. Conklin Ave., Nedrow, NY 13120.	(315) 469–9196	(315) 469–3250	
Pamunkey Indian Tribe.	Allyn Cook-Swarts, Assistant Tribal Administrator.	1054 Pocahontas Trail, King William, VA 23086.	(804) 339–1629	(866) 422–3387	*pamunkeytribe@pamunkey.org.*
Passamaquoddy Tribe of Maine—Indian Township Reservation.	Tene Downing, Child and Family Services Director.	P.O. Box 301, Princeton, ME 04668.	(207) 796–6133	(207) 796–5606	*tfdowning5@gmail.com.*
Passamaquoddy Tribe—Pleasant Point.	Frances LaCoute, Social Services Director.	P.O. Box 343, Perry, ME 04667.	(207) 853–5111	(207) 853–9618	*flacoute@wabanaki.com.*
Penobscot Indian Nation of Maine.	Michael Augustine, Director of Social Services.	1 Down Street, Indian Island, ME 04468.	(207) 817–3164	(207) 817–3166	
Poarch Band of Creek Indians.	Synthia Kyles, ICWA Director.	5811 Jack Springs Rd., Atmore, AL 36502.	(251) 368–9136	(251) 368–0828	*skyles@pci-nsn.gov.*
Rappahannock Tribe, Inc.	G. Anne Richardson, ICWA Coordinator.	5036 Indian Neck Road, Indian Neck, VA 23148.	(804) 796–0260	.....	*www.rappahannocktribe.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Sac & Fox Tribe of the Mississippi in Iowa—Meskwaki.	Mylene Wanatee, Meskwaki Family Services Director.	P.O. Box 245, Tama, IA 52339.	(641) 484–4444	(641) 484–2103	*recruiter.mfs@meskwaki-nsn.gov.*
Saint Regis Mohawk Tribe.	Jean Square, ICWA Coordinator.	412 State Route 37, Akwesasne, NY 13655.	(518) 358–2360	.....	*Jean.square@srmt-nsn.gov.*
Seminole Tribe of Florida.	Shamika Beasley, Advocacy Administrator.	6363 Taft St., Ste. 300B, Hollywood, FL 33024.	(954) 965–1314	(954) 965–1304	*shamikabeasley@semtribe.com.*
Seneca Nation of Indians.	Josie Raphelito, Seneca Health Care Center, Health Planner.	36 Thomas Indian School Drive, Irving, NY 14081.	(716) 532–8223, Ext. 5524.	.....	*josie.raphelito@senecahealth.org.*
Shinnecock Indian Nation of New York.	Paula Collins	P.O. Box 1268, South Hampton, NY 11969.	(631) 287–6476	.....	*paulacollins@shinnecock.org.*
Tonawanda Band of Seneca.	Darwin Hill, Chief	Council of Chiefs, 7027 Meadville Road, Basom, NY 14013.	(716) 542–4244	(716) 542–4008	*tonseneca@aol.com.*
Tunica-Biloxi Indian Tribe of Louisiana.	Evelyn Cass, ICWA Coordinator.	P.O. Box 493, Marksville, LA 71351.	(318) 240–6444	(318) 500–3011	*ecass@tunica.org.*
Tuscarora Nation of New York.	Chief Leo Henry, Clerk.	2006 Mount Hope Road, Lewistown, NY 14092.	(716) 601–4737		
Upper Mattaponi Tribe.	W. Frank Adams, ICWA Coordinator.	P.O. Box 184, King William, VA 23086.	(804) 769–0041		
Wampanoag Tribe of Gay Head (Aquinnah).	Cheryl Andrews-Maltis, Chairwoman; Christy Vanderhoop, Social Service Coordinator.	20 Black Brook Road, Aquinnah, MA 02539.	(508) 645–9265, Ext. 133.	(508) 645–2755	*chairwoman@wampanoagtribe.net; christy@wampanoagtribe.net.*
Mashpee Wampanoag Tribe of Massasschuttes.	Catherine M. Hendrix, ICWA Director.	483 Great Neck Road, South Mashpee, MA 02649.	(508) 477–0208, Ext. 144.	(774) 361–6034	*catherine.hendricks@nwtribe-nsn.gov.*

3. Eastern Oklahoma Region

Eastern Oklahoma Regional Director, PO Box 8002, Muskogee, OK 74402–8002; Phone: (918) 781–4600; Fax (918) 781–4604.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Alabama Quassarte Tribal Town.	Malinda Noon, ICW Director.	P.O. Box 187, Wetumka, OK 74883.	(405) 452–3659	(405) 452–3435	*mnoon@alabama-quassarte.org.*
Cherokee Nation	Nikki Baker Limore, Director.	P.O. Box 948, Tahlequah, OK 74465.	(918) 458–6900	(918) 458–6146	*nikki-baker@cherokee.org.*
The Chickasaw Nation.	Michelle Price, Director Indian Child Welfare.	810 Colony Drive, Ada, Oklahoma 74820.	(580) 272–5550	(580) 272–5553	*michelle.price@chickasaw.net.*
Choctaw Nation of Oklahoma.	Amanda Robinson, ICW Director.	1802 Chukka Hina Dr., Durant, OK 74701.	(580) 924–8280, Ext. 2402.	(580) 920–3197	*arobinson@choctawnation.com.*
Delaware Tribe of Indians.	Aimee Turner, Department of Family and Children Services.	5100 Tuxedo Blvd., Ste. C, Bartlesville, OK 74006.	(918) 337–6510	(918) 337–6518	*aturner@delawaretribe.org.*
Eastern Shawnee Tribe of Oklahoma.	Sara Moore, Indian Child Welfare Director.	10100 S. Bluejacket Road, Ste. 3, Wyandotte, OK 74370.	(918) 666–7710, Ext. 1130.	(888) 971–3908	*tgibson@estoo.net.*
Kialegee Tribal Town.	Angie Beaver, ICW Coordinator.	P.O. Box 332, Wetumka, OK 74883.	(405) 452–5388	(405) 452–3413	*angie.beaver@kialegeetribe.net.*
Miami Tribe of Oklahoma.	Wanda Stovall, ICW Coordinator.	P.O. Box 1326, Miami, OK 74355.	(918) 541–1359	(918) 542–6448	*wstovall@miamination.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Modoc Tribe of Oklahoma.	Regina Shelton & Linda Nott, Co-Administrators Division of Children and Family Services.	625 6th SE, Miami, OK 74354.	(918) 542–7890	(918) 542–7878	*regina.shelton@modoctribe.com; linda.nott@modoctribe.com.*
The Muscogee (Creek) Nation.	Kimee Wind-Hummingbird, Director of Child and Family Services.	P.O. Box 580, Okmulgee, OK 74447.	(918) 732–7869	(918) 732–7854	*kwind-hummingbird@mcn-nsn.gov.*
Osage Tribe	Leah Bighorse, Intake-Supervisor.	255 Senior Drive, Pawhuska, OK 74056.	(918) 287–5341	(918) 287–5231	*lbighorse@osagenation-nsn.gov.*
Ottawa Tribe of Oklahoma.	Roy A. Ross, Tribal Social Services.	P.O. Box 110, Miami, OK 74355.	(918) 540–1536	(918) 542–3214	*rross.oto@gmail.com.*
Peoria Tribe of Indians of Oklahoma.	Tracy Coach, Indian Child Welfare Director.	P.O. Box 1527, Miami, OK 74355.	(918) 540–2535, Ext. 19.	(918) 540–2538	*tcoach@peoriatribe.com.*
Quapaw Tribe of Oklahoma.	Mandy Dement, Family Services, ICW Director.	P.O. Box 765, Quapaw, OK 74363.	(918) 238–3152	(918) 674–2581	*mdement@quapawtribe.com.*
Seminole Nation of Oklahoma.	Tracy Haney, Director, Indian Child Welfare.	P.O. Box 1498, Wewoka, OK 74884.	(405) 257–9038	(405) 257–9036	*haney.t@sno-nsn.gov.*
Seneca-Cayuga Tribe of Oklahoma.	Mark Westfall, ICW Director.	23701 South 655 Road, Grove, OK 74344.	(918) 516–3508; (918) 533–8377.	(918) 516–0248	*mwestfall@sctribe.com.*
Thlopthlocco Tribal Town.	Yvonda Fixico, Acting ICWA Director.	P.O. Box 188, Okemah, OK 74859–0188.	(918) 560–6121	(918) 623–3023	*yfixaco@tttown.org.*
United Keetoowah Band of Cherokee Indians in Oklahoma.	Raven Owl, ICW Director.	P.O. Box 746, Tahlequah, OK 74465.	(918) 871–2800	(918) 871–2834	*icwainquiries@ukb-nsn.gov.*
Wyandotte Nation ...	Tara Gragg, Social Worker.	64700 E. Hwy 60, Wyandotte, OK 74370.	(918) 678–6355	(918) 678–3087	*tgragg@wyandotte-nation.org.*

4. Great Plains Region

Great Plains Regional Director, 115 4th Avenue SE, Aberdeen, SD 57401; Phone: (605) 226–7343; Fax: (605) 226–7446

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Cheyenne River Sioux Tribe.	Diane Garreau, ICWA Director.	P.O. Box 590, Eagle Butte, SD 57625.	(605) 964–6460; (605) 964–6462.	(605) 964–6463	*Dgarreau61@hotmail.com.*
Crow Creek River Sioux Tribe.	Marlo Medicine Crow, Jr., ICWA Specialist.	P.O. Box 130, Fort Thompson, SD 57339.	(605) 245–2581	(605) 245–2401	*icwaccst@gmail.com.*
Flandreau Santee Sioux Tribe.	Jessica Morson, ICWA Director.	P.O. Box 283, Flandreau, SD 57028.	(605) 997–5055	(605) 997–3694	*jessica.morson@fsst.org.*
Lower Brule Sioux Tribe.	Jera Brouse, Designated ICWA Agent.	187 Oyate Circle, Lower Brule, SD 57548.	(605) 473–5561	(605) 473–1019	*jerabrouse@lowerbrule.net.*
Oglala Sioux Tribe ..	Paul Forney, ICWA Specialist.	P.O. Box 604, Pine Ridge, SD 57770.	(605) 867–5752	(605) 867–5941	*paul.forney@oglala.com.*
Omaha Tribe of Nebraska.	Mosiah Harlan, ICWA Director; Kash Echtenkamp, ICWA Specialist.	P.O. Box 500, Macy, NE 68039.	(402) 837–5331, Ext. 305.	(402) 837–5362	*mosiah.harlan@omahatribe.com; kash.echtenkamp@omahatribe.com.*
Ponca Tribe of Nebraska.	Lynn Schultz, ICWA Specialist.	1800 Syracuse Avenue, Norfolk, NE 68701.	(402) 371–8834, Ext. 123.	(402) 371–7564	*lschultz@poncatribe-ne.org.*
Rosebud Sioux Tribe.	Shirley J. Bad Wound, ICWA Specialist.	P.O. Box 609, Mission, SD 57555.	(605) 856–5270	(605) 856–5268	*rsticwa9@gwtc.net.*
Santee Sioux Nation	Karen RedOwl, ICWA Specialist.	RR 302, Box 5191, Niobrara, NE 68760.	(402) 857–2342	(402) 857–2361	*karen.redowl@nebraska.gov.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Sisseton-Wahpeton Sioux Tribe.	Evelyn Pilcher, ICWA Specialist.	P.O. Box 509, Agency Village, SD 57262.	(605) 698–3992	(605) 698–3999	*evelyn.pilcher@state.sd.us.*
Spirit Lake Sioux Tribe.	Marie Martin, ICWA Coordinator.	P.O. Box 356, Fort Totten, ND 58335.	(701) 766–4855	(701) 766–4856	*slticwa-dir@gondtc.com.*
Standing Rock Sioux Tribe.	Rebecca Graybull, ICWA Coordinator.	P.O. Box 770, Fort Yates, ND 58538.	(701) 854–3095	(701) 854–5575	*rgraybull@standingrock.org.*
Three Affiliated Tribes (Mandan, Arikara & Hidatsa).	Vincent Roehr, ICWA Specialist; Krystal Hartman, ICWA Clerk.	404 Frontage Drive, New Town, ND 58763.	(701) 627–8198	(701) 627–4225	*vroehn@mhanation.com; khartman@mhanation.com.*
Turtle Mountain Band of Chippewa Indians.	Marilyn Poitra, ICWA Coordinator.	P.O. Box 900, Belcourt, ND 58316.	(701) 477–5688	(701) 477–5797	*marilynp@tmcwfs.net.*
Winnebago Tribe of Nebraska.	Elexa Mollet, ICWA Worker.	P.O. Box 723, Winnebago, NE 68071.	(402) 878–2379, Ext. 115.	(402) 878–2228	*elexa.mollet@winnebagotribe.com.*
Yankton Sioux Tribe of South Dakota.	Melissa Sanchez, ICWA Director.	P.O. Box 1153, Wagner, SD 57380.	(605) 384–5712; Alt. (605) 384–4500.	(605) 384–5014	*yst_icwa@outlook.com.*

5. Midwest Region

Midwest Regional Director, 5600 West American Blvd., Suite 500, Norman Pointe II Building, Bloomington, MN 55437; Phone: (612) 725–4500; Fax: (612) 713–4401.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Bad River Band of the Lake Superior.	Gina Secord, Abinoojiyag Resource Center Program Manager.	P.O. Box 55, Odanah, WI 54861.	(715) 682–7135, Ext. 3.	(715) 682–7887	*ARCMgr@badriver-nsn.gov.*
Bay Mills Indian Community.	Phyllis Kinney, Tribal Court Administrator.	12449 West Lakeshore Drive, Brimley, MI 49715.	(906) 248–3241	(906) 248–8811	*phyllisk@baymills.org.*
Bois Forte Reservation Business Committee.	Angela Wright, Indian Child Welfare Supervisor.	13071 Nett Lake Road, Suite A, Nett Lake, MN 55771.	(218) 757–3295	(218) 757–3335	*amwright@boisforte-nsn.gov.*
Fond du Lac Reservation Business Committee.	Kevin Dupuis, Chairman.	1720 Big Lake Road, Cloquet, MN 55720.	(218) 879–4593	(218) 879–4146	*kevindupuis@fdlrez.com.*
Forest County Potawatomi.	Maline Enders, Indian Child Welfare Supervisor.	5415 Everybody's Road, Crandon, WI 54520.	(715) 478–4812	(715) 478–7442	*maline.enders@fcpotawatomi-nsn.gov; icwmain@fcpotawatomi-nsn.gov.*
Grand Portage Reservation Business Center.	ICWA Representative, Human Service Director.	P.O. Box 428, Grand Portage, MN 55605.	(218) 475–2453	(218) 475–2455	
Grand Traverse Band of Ottawa and Chippewa Indians.	Helen Cook, Anishinaabek Family Services Supervisor.	2605 N. West Bayshore Drive, Peshawbestown, MI 49682–9275.	(231) 534–7681	(231) 534–7706	*helen.cook@gtbindians.com.*
Hannahville Indian Community.	Wendy Lanaville, ICWA Worker.	N15019 Hannahville B1 Road, Wilson, MI 49896.	(906) 723–2512	(906) 466–7397	*wendy.lanaville@hichealth.org.*
Ho-Chunk Nation	Valerie Blackdeer, CFS Director.	P.O. Box 40, Black River Falls, WI 54615.	(715) 284–2622	(715) 284–9486	*valerie.blackdeer@ho-chunk.com.*
Keweenaw Bay Indian Community.	Caitlin Bowers, Director.	16429 Bear Town Road, Baraga, MI 49908.	(906) 353–4201	(906) 353–8171	*cbowers@kbic-nsn.gov.*
Lac Courte Oreilles Band of Lake Superior Chippewa Indian of Wisconsin.	Lisa Stark, Assistant Indian Child Welfare Director.	13394 W. Trepania Road, Hayward, WI 54843.	(715) 558–7473	(715) 634–2981	*lisa.stark@lco-nsn.gov.*
Lac du Flambeau Band of Lake Superior Chippewa Indians.	Kristin Allen, ICW Director.	P.O. Box 216, Lac du Flambeau, WI 54538.	(715) 588–4275	(715) 588–3855	*ldficw@ldftribe.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Lac Vieux Desert Band of Lake Superior Chippewa.	Dee Dee McGeschick, Social Services Director.	P.O. Box 249, Watersmeet, MI 49969.	(906) 358–4940	(906) 358–9920	*dee.mcgeshick@lvdtribal.com.*
Leech Lake Band of Ojibwe.	Earl Robinson, Human Services Division Director.	190 Sailstar Drive NE, Cass Lake, MN 56633, P.O. Box 967, Cass Lake, MN 56633.	(218) 335–8270	(218) 335–3768	*earl.robinson@llojibwe.org.*
Little River Band of Ottawa Indians.	Shayne Machen, Prosecutor.	3031 Domres Road, Manistee, MI 49660.	(231) 398–3384	(231) 398–3387	*shayne_machen@lrboi-nsn.gov.*
Little Traverse Bay Band of Odawa Indians.	Heather Boening, Human Services Director.	7500 Odawa Circle, Harbor Springs, MI 49740.	(231) 242–1620; (231) 242–1400.	(231) 242–1635	*hboening@ltbbodawa-nsn.gov.*
Lower Sioux Indian Community of Minnesota.	Lisa Jones, Director	39458 Reservation Highway 1, Morton, MN 56270.	(507) 697–8683	(507) 697–6198	*lisa.jones@lowersioux.com.*
Match-E-Be-Nash-She-Wish Band of Potawatomi Indians of Michigan (Gun Lake Tribe).	Dominique Ambriz, ICWA Representative.	2880 Mission Dr., Shelbyville, MI 49344.	(269) 397–1760	(269) 397–1763	*Dominique.Ambriz@hhs.glt-nsn.gov.*
Menominee Indian Tribe of Wisconsin.	Carol Corn, Director of Social Services.	P.O. Box 520, Keshena, WI 54135.	(715) 799–5161	(715) 799–6061	*ccorn@mitw.org.*
Mille Lacs Band of Ojibwe.	Mishelle Ballinger, Administrative Case Aid—Intake—Family Services.	101 Pony Farm Road, Onamia, MN 56359.	(320) 532–7766	(320) 532–4569	*mishelle.ballinger@hhs.millelacsband-nsn.gov.*
Minnesota Chippewa Tribe of Minnesota Includes Six Component Reservations: Bois Forte Band, Fond Du Lac band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band.	George Goggleye, Human Services Director.	P.O. Box 217, Cass Lake, MN 56633.	(218) 335–8586	(218) 335–8080	*ggoggleye@mnchippewatribe.org.*
Nottawaseppi Huron Band of the Potawatomi.	Meg Fairchild, Social Services Manager.	1485 Mno Bmadzewen Way, Fulton, MI 49052.	(269) 704–8341	(269) 729–5920	*nfairchild@nhbp.org.*
Oneida Nation	ICWA Director, ICW Supervisor.	P.O. Box 365, Oneida, WI 54155.	(920) 490–3700, Ext. 3; (920) 490–3821.	(920) 490–3820	*icw@oneidanation.org.*
Pokagon Band of Potawatomi.	Mark Pompey, Social Services Director.	58620 Sink Road, Dowagiac, MI 49047.	(269) 462–4277	(269) 782–4295	*mark.pompey@pokagonband-nsn.gov.*
Prairie Island Indian Community Mdewakanton Dakota Sioux of Minnesota.	Patricia Aw-Yang, Enrollment Office.	5636 Sturgeon Lake Rd., Welch, MN 55089.	(651) 385–4126	(651) 385–4180	*Patricia.Aw-Yang@piic.org.*
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin.	Gretchen Morris, Indian Child Welfare Director.	37820 Community Rd., Bayfield, WI 54814.	(715) 779–3785	(715) 779–3783	*gretchen.morris@redcliff-nsn.gov.*
Red Lake Band of Chippewa Indians.	ICWA Representative.	P.O. Box 427, Red Lake, MN 56671.	(218) 679–1211	.....	*icwa@redlakenation.org.*
Sac & Fox Tribe of the Mississippi in Iowa.	Mylene Wanatee, Family Services Director.	P.O. Box 245, Tama, IA 52339.	(641) 484–4444	(641) 484–2103	*recruiter.mfs@meskwaki-nsn.gov.*
Saginaw Chippewa Tribe of Michigan.	Angela Gonzalez, ICWA & Licensing Supervisor.	7070 East Broadway Road, Mt. Pleasant, MI 48858.	(989) 775–4901	(989) 775–4912	*agonzalez@sagchip.org.*
Sault Ste. Marie Tribe of Chippewa Indians of Michigan.	Melissa Van Luven, ICWA Program Director.	2218 Shunk Rd, Sault Ste. Marie, MI 49783.	(906) 632–5250	(906) 632–5266	*ICWA-MIPFA-Contacts@saulttribe.net.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Shakopee Mdewakanton Sioux Community.	Tribal Records, ICWA Contact.	2330 Sioux Trail NW, Prior Lake, MN 55372.	(952) 496–6101		*tribalrecords@shakopeedakota.org.*
Sokaogon Chippewa Community of Wisconsin.	Nick Vanzile, Director Indian Child Welfare.	10808 Sokaogon Drive, Crandon, WI 54520.	(715) 478–6437	(715) 478–0692	*nick.vanzile@scc-nsn.gov.*
St. Croix Chippewa Indians of Wisconsin.	Elizabeth Lowe, Indian Child Welfare Director.	4404 State Rd. 70, Webster, WI 54893.	(715) 349–8554, Ext. 5264; (715) 349–2671.	(715) 349–8665	*elizabethl@stcroixtribalcenter.com.*
Stockbridge-Munsee Community of Wisconsin.	Teresa Juga, ICWA Manager.	W12802 County A, Bowler, WI 54416.	(715) 793–4580	(715) 793–1312	*teresa.juga@mohican.com.*
Upper Sioux Community of Minnesota.	Kathleen Preuss, Indian Child Welfare Director.	P.O. Box 147, 5744 Hwy. 67, Granite Falls, MN 56241.	(320) 564–6318	(320) 564–2550	*kathleenp@uppersiouxcommunity-nsn.gov.*
White Earth Reservation Business Committee.	Laurie York, Program Director.	P.O. Box 358, White Earth, MN 56591.	(218) 983–4647	(218) 983–3712	*laurie.york@whiteearth-nsn.gov.*

6. Navajo Region

Navajo Regional Director, Navajo Regional Office, P.O. Box 1060, Gallup, NM 87305; Phone: (505) 863–8314; Fax: (505) 863–8324.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Navajo Nation	Regina Yazzie, MSW, Director, Navajo Children and Family Services (ICWA).	P.O. Box 1930, Window Rock, AZ 86515.	(928) 871–6806	(928) 871–7667	*regina;yazzie@navajo-nsn.gov.*

7. Northwest Region

Northwest Regional Director, 911 NE 11th Avenue, Portland, OR 97232; Phone: (503) 231–6702; Fax (503) 231–2201.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Burns Paiute Tribe ..	Michelle Bradach, Social Service Director.	100 Pasigo Street, Burns, OR 97720.	(541) 573–8043	(541) 573–4217	*michelle.bradach@burnspaiute-nsn.gov.*
Coeur d'Alene Tribe	Charles Henry, ICW Program Manager.	P.O. Box 408, Plummer, ID 83851.	(208) 686–2071	(208) 686–2059	*chenry@cdatribe-nsn.gov.*
Confederated Salish & Kootenai Tribes.	Lena Tewawina, ICW Caseworker.	P.O. Box 278, Pablo, MT 59821.	(406) 675–2700 Ext. 1087.		*lena.tewawina@cskt.org.*
Confederated Tribes and Bands of the Yakama Nation.	Jessica Rammelsberg, Assistant Prosecutor.	P.O. Box 151, Toppenish, WA 98948.	(509) 865–5121 Ext. 4558.	(509) 865–8936	*Jessica_rammelsberg@yakama.com.*
Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians.	Shayne Platz, Lead Case Manager/ICWA; Earl Boots, Family Services Director.	135 Silver Lane Suite 200, Eugene, OR 97404; 1245 Fulton Ave, Coos Bay, OR 97420.	(541) 744–1334; (541) 888–7516.		*splatz@ctclusi.org; eboots@ctclusi.org.*
Confederated Tribes of Siletz Indians.	Arthur Fisher, Staff Attorney.	P.O. Box 549, Siletz, OR 97380.	(541) 444–8324	(541) 444–2307	*arthurf@ctsi.nsn.us.*
Confederated Tribes of the Chehalis Reservation.	Jose Caywood, Director of Social Services.	P.O. Box 536, Oakville, WA 98568.	(360) 709–1777	(360) 273–5207	*jcaywood@chehalistribe.org.*
Confederated Tribes of the Colville.	Preston Boyd, CFS Manager.	P.O. Box 150, Nespelem, WA99155–011.	(509) 634–2774	(509) 634–2633	*preston.boyd@colvilletribes.com.*
Confederated Tribes of the Grande Ronde Community of Oregon.	Donna Johnson, ICWA Intake.	9615 Grand Ronde Road, Grand Ronde, OR 97347–0038.	(503) 879–4529	(503) 879–2142	*donna.johnson@grandronde.org.*
Confederated Tribes of the Umatilla Indian Reservation.	Brent Leonhard, Attorney.	46411 Timine Way, Pendleton, OR 97801.	(541) 429–7406	(541) 429–7402	*brentleonhard@ctuir.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Confederated Tribes of Warm Springs Reservation.	Lisa Lomas, Chief Judge.	P.O. Box 850, Warm Springs, OR 97761.	(541) 553–3278	(541) 553–3281	*lisa.lomas@wstribes.org.*
Coquille Indian Tribe	Roni Jackson, ICWA Caseworker.	P.O. Box 3190, Coos Bay, OR 97420.	(541) 888–9494	(541) 888–0673	*ronijackson@coquilletribe.org.*
Cow Creek Band of Umpqua Tribe of Indians.	Michele Moore, Human Services Director.	2371 NE Stephens Street, Roseburg, OR 97470.	(541) 677–5575	(541) 677–5565	*mmoore@cowcreek.com.*
Cowlitz Indian Tribe	Mike Yates, ICWA Caseworker.	P.O. Box 2547, Longview, WA 98632–8594.	(360) 355–2835	(360) 577–7432	*myates.health@cowlitz.org.*
Hoh Indian Tribe	Lola Moses, Family Services Manager.	P.O. Box 2196, Forks, WA 98331.	(360) 780–0610	(360) 374–5426	*lola.moses@hohtribe-nsn.org.*
Jamestown S'Klallam Tribe.	Loni Greninger, ICW Supervisor.	1033 Old Blyn Hwy, Sequim, WA 98382.	(360) 681–4660	(360) 681–3402	*lgreninger@jamestowntribe.org.*
Kalispel Tribe of Indians.	Wendy Thomas, Social Services Director.	934 S Garfield Road, Airway Heights, WA 99001.	(509) 789–7630	(509) 789–7675	*wthomas@camashealth.com.*
Klamath Tribes	Candi Uses Arrow, CFS Manager.	P.O. Box 436, Chiloquin, OR 97624.	(541) 783–2219	(541) 783–7783	*candi.usesarrow@klamathtribes.com.*
Kootenai Tribe of Idaho.	Jennifer Porter, Tribal Council.	P.O. Box 1269, Bonners Ferry, ID 83805.	(208) 267–3519 Ext. 549.	(208) 267–2960	*jennifer@kootenai.org.*
Lower Elwha Tribal Community Council.	Rebecca Sampson-Weed, ICW Program Manager.	3080 Lower Elwha Road, Port Angeles, WA 98363.	(360) 461–7033	(866) 277–3141	*becca.weed@elwha.org.*
Lummi Nation	Kym Goes Behind, ICWA Supervisor.	P.O. Box 1024, Ferndale, WA 98248.	(360) 384–2324	(360) 384–2341	*kymg@lummi-nsn.gov.*
Makah Indian Tribal Council.	Michelle Claplanhoo, ICW Caseworker; Vickie Carlson, Social Services Manager.	P.O. Box 115, Neah Bay, WA 98357.	(360) 645–3044; (360) 645–3521.	(360) 645–2806	*michelle.claplanhoo@makah.com; vickie.carlson@makah.com.*
Metlakatla	Jacqueline Wilson, ICW Caseworker.	P.O. Box 8, Metlakatla, AK 99926.	(907) 886–6914	(907) 886–6913	*jwilsonm4@outlook.com.*
Muckleshoot	Alexandra Cruz-James, Acting Director of Human Services.	39015 172nd Ave SE, Auburn, WA 98092.	(253) 876–3261	(253) 876–3095	*alex.cruz@muckleshoot.nsn.us.*
Nez Perce Tribe	Joni Williams, ICW Director.	P.O. Box 365, Lapwai, ID 83540.	(208) 621–4709	(208) 843–9401	*joniw@nezperce.org.*
Nisqually Indian Community.	Lorraine Van Brunt, Child & Family Services Manager.	4820 She-Nah-Num Drive SE, Olympia, WA 98513.	(360) 456–5221	(360) 486–9555	*Vanbrunt.lorraine@nisqually-nsn.gov.*
Nooksack Indian Tribe of Washington.	Katrice Rodriguez, Youth & Family Services Director.	5061 Deming Road, Deming, WA 98244.	(360) 306–5090	(360) 306–5099	*krodriguez@nooksack-nsn.gov.*
Northwestern Band of Shoshone Nation.	Patty Timbimboo-Madsen, ICWA Manager.	707 North Main, Brigham City, UT 84302.	(435) 734–2286, Ext. 7077.	(435) 723–6320	*ptimbimboo@nwbshoshone.com.*
Port Gamble Indian Community.	Cheryl Miller, Children and Family Services Director.	31912 Little Boston Road NE, Kingston, WA 98346.	(360) 287–9665	(360) 297–9666	*cmiller@pgst.nsn.us.*
Puyallup Tribe	Sandra Cooper, ICW Tribal/State Liaison.	3009 E. Portland Avenue, Tacoma, WA 98404.	(253) 405–7544	(253) 680–5998	*sandra.cooper@puyalluptribe-nsn.gov.*
Quileute Tribal Council.	Nicole Earls, Human Services Director; Charlene Meneely, ICW Program Manager.	P.O. Box 279, LaPush, WA 98350.	(360) 374–4306; (360) 640–2428.	(360) 640–8795	*nicole.earls@quileutetribe.com; charlene.meneely@quileutetribe.com.*
Quinault Indian Nation.	Amelia DeLaCruz, Social Services Manager.	P.O. Box 189, Taholah, WA 98587.	(360) 276–8215	(360) 276–4152	*amelia.delacruz@quinault.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Samish Indian Nation.	Danielle Stock, Family Services Specialist; Ana Cortez, Family Services Specialist.	1809 Commerical Ave, Anacortes, WA 98221.	(360) 298–6431; (360) 298–5815.		*dstock@samishtribe.nsn.us; acortez @samishtribe.nsn.us.*
Sauk-Suiattle Indian Tribe of Washington.	Donna Furchert, ICW Director.	5318 Chief Brown Lane, Darrington, WA 98241.	(360) 436–0598	(360) 436–1533	*dfurchert@sauk-suiattle.com.*
Shoalwater Bay Tribal Council.	Kathirine Horne, Director, Social Services Director.	P.O. Box 130, Tokeland, WA 98590.	(360) 267–8134	(360) 267–0247	*khorne@shoalwaterbay-nsn.gov.*
Shoshone Bannock Tribes of the Fort Hall Reservation.	Brandelle Whitworth, General Counsel.	P.O. Box 306, Ft. Hall, ID 83203.	(208) 478–3923	(208) 237–9736	*bwhitworth@sbtribes.com.*
Skokomish Tribe	Theron Dixon, ICW Supervisor.	100 N. Tribal Center Road, Skokomish, WA 98584.	(360) 426–5755 Ext. 2111.	(360) 877–2399	*tdixon@skokomish.org.*
Snoqualmie Tribe	Carlee Gorman, SICW Program Manager.	P.O. Box 969, Snoqualmie, WA 98065.	(425) 888–6551 Ext. 6232.	(425) 689–1272	*carlee@snoqualmietribe.us.*
Spokane Tribe of Indians.	Ricki Peone, HHS Director; Tawhnee Colvin, Assistant HHS Director.	P.O. Box 540, Wellpinit, WA 99040.	(509) 258–7502 Ext. 32; (509) 258–7502.	(509) 258–7029	*ricki.peone @spokanetribe.com; tawhneec @spokanetribe.com.*
Squaxin Island	Adirian Emery, ICWA Lead Social Worker.	10 SE Squaxin Lane, Shelton, WA 98584–9200.	(360) 432–3885	(360) 427–2652	*aemery@squaxin.us.*
Stillaguamish Tribe of Washington.	Candy Hamilton, ICW Director.	P.O. Box 3782, Arlington, WA 98223.	(360) 572–3460	(360) 925–2862	*icw@stillaguamish.com.*
Suquamish Tribe of the Port Madison Reservation.	Tara Reynon, ICWA Director.	P.O. Box 498, Suquamish, WA 98392.	(360) 394–8479	(360) 697–6774	*treynon@suquamish.nsn.us.*
Swinomish Indians Tribal Community.	Tracey Parker, Swinomish Family Services Coordinator.	17337 Reservation Rd, LaConner, WA 98257.	(360) 466–7222	(360) 466–1632	*tparker@swinomish.nsn.us.*
Tulalip Tribe	Roberta Hillaire, beda?chelh Manager; Jennifer Walls, CPS Lead.	2828 Mission Hill Road, Tulalip, WA 98271.	(360) 716–4068; (360) 716–4061.	(360) 716–0750	*rhillaire@tulaliptribes-nsn.gov;jwalls @tulaliptribes-nsn.gov.*
Upper Skagit Indian Tribe of Washington.	Felice Keegahn, Indian Child Welfare Coordinator.	25944 Community Plaza Way, Sedro Woolley, WA 98284.	(360) 854–7077	(360) 854–7125	*felicek@upperskagit.com.*

8. Pacific Region

Pacific Regional Director, BIA, Federal Building, 2800 Cottage Way, Room W–2820, Sacramento, CA 95825; Phone: (916) 978–6000; Fax: (916) 978–6099.

Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation.	Jeff Grubbe, Chairman.	5401 Dinah Shore Drive, Palm Springs, CA 92264.	(760) 699–6800	(760) 699–6919.	
Augustine Band of Cahuilla Indians.	Amanda Vance, Chairperson.	P.O. Box 846, Coachella, CA 92236.	(760) 398–4722	(760) 398–4252.	
Alturas Indian Rancheria.	Phillip Del Rosa	P.O. Box 340, Alturas, CA 96101.	(530) 233–5571	(530) 233–4165	*air530@yahoo.com.*
Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation).	Indian Child Social Services Director.	4058 Willow Rd., Alpine, CA 91903.	(619) 445–1188	(619) 445–0765.	

Bear River Band of the Rohnerville Rancheria.	Barry Brenard, Chairman.	266 Keisner Rd., Loleta, CA 95551.	(707) 773–1900	(707) 733–1972	*dakotamcginnis@brb-nsn.gov.*
Berry Creek Rancheria of Maidu Indians.	Maria Ramirez, ICWA Director & Tribal Representative.	5 Tyme Way, Oroville, CA 95966.	(530) 534–3859	(530) 534–0343	*mramirez@berrycreek rancheria.com.*
Big Lagoon Rancheria.	Virgil Moorehead, Chairperson.	P.O. Box 3060, Trinidad, CA 95570.	(707) 826–2079	(707) 826–0495	*vmoorehead@earthlink.net.*
Big Pine Paiute Tribe of the Owens Valley.	Jill Paydon, Tribal Administrator/ ICWA Representative.	P.O. Box 700, Big Pine, CA 93513; 825 S. Main St., Big Pine, CA 93513.	(760) 938–2003	(760) 938–2942	*j.paydon@bigpinepaiute.org.*
Big Sandy Rancheria of Western Mono Indians of California.	Regina Riley, Tribal Council Secretary.	P.O. Box 337, Auberry, CA 93602.	(559) 374–0066	(559) 374–0055	*GRiley@bsrnation.com.*
Big Valley of Pomo Indians of the Big Valley Rancheria.	.....	2726 Mission Rancheria Road, Lakeport, CA 95453.	(707) 263–3924	(707) 263–3977	*resparza@big-valley.net.*
Bishop Paiute Tribe	Gertrude Brown, ICWA Specialist.	50 TuSu Lane, Bishop, CA 93514.	(760) 873–7799	(760) 873–3529	*gretrude.brown@ bishoppaiute.org.*
Blue Lake Rancheria	Claudia Brundin, Chairperson.	P.O. Box 428, Blue Lake, CA 95525.	(707) 668–5101	(707) 668–4272	*ahuff@bluelakerancheria-nsn.gov.*
Bridgeport Indian Colony.	John Glazier, Chairperson.	P.O. Box 37, Bridgeport, CA 93517.	(760) 932–7083	(760) 932–7846	*chair@ bridgeportindiancolony.com.*
Buena Vista Rancheria of Me-Wuk Indians.	Rhonda Morningstar Pope, Chairperson.	1418 20th Street, Suite 200, Sacramento, CA 95811.	(916) 491–0011	(916) 491–0012	*info@BuenaVistaTribe.com.*
Cabazon Band of Mission Indians.	Doug Welmas, Chairman.	84–245 Indio Springs Parkway, Indio, CA 92201.	(760) 342–2593	(760) 347–7880	*nmarkwardt@ cabazonindians-nsn.gov.*
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria.	Yvonne Page, Counselor.	3730 Highway 45, Colusa, CA 95932.	(530) 458–6571	(530) 458–8061	*ypage@colusa-nsn.gov.*
Cahuilla Band of Mission Indians.	Lisa Mariano, Tribal Social Worker.	52701 Hwy 371, Anza, CA 92539.	(951) 763–5549	(951) 763–2808	*Socialworker@cahuilla.net.*
California Valley Miwok Tribe*.					
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation.	Indian Child Social Services Director.	4058 Willow Rd., Alpine, CA 91903.	(619) 445–1188	(619) 445–0765.	
Cedarville Rancheria	Richard Lash, Chairperson.	300 West 1st Street, Alturas, CA 96101.	(530) 233–3969	(530) 233–4776	*melissa@stewartspoint.org.*
Cher-Ae Heights Indian Community of the Trinidad Rancheria.	Amy Atkins, Executive Manager.	P.O. Box 630, Trinidad, CA 95570.	(707) 677–0211	(707) 677–3921	*aatkins@ trinidadrancheria.com.*
Chicken Ranch Rancheria of Me-wuk Indians of California.	Lloyd Mathiesen, Chairman.	P.O. Box 1159, 9195 Jamestown, CA 95327.	(209) 984–9066	(209) 984–5606	*chixrnch@mlode.com.*
Cloverdale Rancheria of Pomo Indians of California.	Patricia Hermosillo, Chairperson.	555 S. Cloverdale Blvd., Cloverdale, CA 95425.	(707) 894–5775	(707) 894–5727.	
Cold Springs Rancheria of Mono Indians of California.	Jeffery Lee, Chairman.	P.O. Box 209, Tollhouse, CA 93667.	(559) 855–5043	(559) 855–4445.	
Kletsel Dehe Band of Wintun Indians (Cortina Indian Rancheria).	Charlie Wright, Tribal Chairman.	P.O. Box 1630, Williams, CA 95987.	(530) 473–3274	(530) 473–3301	*cww281@gmail.com.*
Coyote Valley Band of Pomo Indians.	Michael Hunter, Chairman.	7601 North State St., Redwood Valley, CA 95470.	(707) 485–8723	(707) 485–1247	*tribalgovernment@ coyotevalley-nsn.gov.*

Dry Creek Rancheria Band of Pomo Indians.	Chris Wright, Chairman.	P.O. Box 607, Geyserville, CA 96441.	(707) 431–4090	(707) 857–3794	*chrisw@drycreekrancheria.com.*
Elem Indian Colony	Agustin Garcia, Chairman.	P.O. Box 757, Lower Lake, CA 95457.	(707) 994–3400	(707) 994–3408	*a.garcia@elemindiancolony.org.*
Elk Valley Rancheria	Dale Miller, Chairman.	2332 Howland Hill Rd, Crescent City, CA 95531.	(707) 464–4680	(707) 464–4519	*swoods@elk-valley.com.*
Enterprise Rancheria of Maidu Indians.	Glenda Nelson, Chairwoman.	2133 Montevista Ave, Oroville, CA 95966.	(530) 532–9214	(530) 532–1768	*info@enterpriserancheria.org.*
Ewiiaapaayp (Cuyapaipe) Band of Kumeyaay Indians.	Robert Pinto, Sr., Chairman.	4050 Willow Road, Alpine, CA 91901.	(619) 445–6315	(619) 445–9126	*wmicklin@leaningrock.net.*
Federated Indians of Graton Rancheria.	Greg Sarris, Chairman.	6400 Redwood Drive, Suite 300, Rohnert Park, CA 94928.	(707) 566–2288	(707) 566–2291.	
Fort Bidwell Indian Community of the Fort Bidwell Reservation.	Kevin Dean Townsend, Chairman.	P.O. Box 129, Fort Bidwell, CA 96112.	(530) 279–6310	(530) 279–2233	*liz.zendejas@fbicc.com.*
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation.	Norman Wilder, Chairperson.	P.O. Box 67, Independence, CA 93526.	(760) 878–5160	(760) 878–2311	*receptionist@fortindependence.com.*
Fort Mojave Indian Tribe.	Melvin Lewis, Sr., Social Services Department Director.	500 Merriman Avenue, Needles, CA 92363.	(928) 346–1550; (866) 346–6020.	(928) 346–1552	*ssidr@ftmojave.com.*
Greenville Rancheria	Patty Allen, CFO & ICWA Coordinator.	P.O. Box 279, Greenville, CA 95947.	(530) 284–7990	(530) 284–3511	*pallen@greenvillerancheria.com.*
Grindstone Indian Rancheria.	Ronald Kirk, Chairman.	ICWA, P.O. Box 63, Elk Creek, CA 95939.	(530) 968–5365	(530) 968–5366	*girrancheria@yahoo.com.*
Guidiville Rancheria	Merlene Sanchez, Tribal Chairperson.	P.O. Box 339, Talmage, CA 95481.	(707) 462–3682	(707) 462–9183	*admin@guidiville.net.*
Habematolel Pomo of Upper Lake Rancheria.	Sherry Treppa, Chairperson.	P.O. Box 516, Upper Lake, CA 95485.	(707) 275–0737	(707) 275–0757	*tribaladmin@upperlakepomo.com.*
Hoopa Valley Tribe	Ryan Jackson, Chairperson.	P.O. Box 1348, Hoopa, CA 95546.	(530) 625–4211	(530) 625–4594	*hoopa.receptionist@gmail.com.*
Hopland Band of Pomo Indians.	Josephine Loomis, ICWA Social Case Manager.	3000 Shanel Rd., Hopland, CA 95449.	(707) 472–2100, Ext. 1114.	(707) 744–8643	*jloomis@hoplandtribe.com.*
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation.	Social Services Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Ione Band of Miwok Indians of California.	Sara A. Dutschke Setshwaelo, Chairperson.	P.O. Box 699, Plymouth, CA 95669.	(209) 245–5800	(209) 245–6377	*administrator@ionemiwok.org.*
Jackson Band of Miwuk Indians.	Adam Dalton, Chairperson.	P.O. Box 1090, Jackson, CA 95642.	(209) 223–1935	(209) 223–5366	*mmorla@jacksoncasino.com.*
Jamul Indian Village of California.	Indian Child Social Services Director.	4058 Willow Rd., Alpine, CA 91903.	(619) 445–1188	(619) 445–0765.	
Karuk Tribe	Russell Attebery, Chairman, and Patricia Hobbs, LCSW, Director of Human Services.	1519 S. Oregon Street, Yreka, CA 96097.	(530) 493–1600; (530) 841–3141.	(530) 493–5150	*battebery@karuk.us; phobbs@karuk.us.*
Kashia Band of Pomo Indians of the Stewarts Point Rancheria.	Dino Franklin, Jr., Chairman.	1420 Guerneville Rd., Suite 1, Santa Rosa, CA 95403.	(707) 591–0580	(707) 591–0583	*tribalofc@stewartspointrancheria.com.*
Kletsel Dehe Band of Wintun Indians.	Charlie Wright, Chairperson.	P.O. Box 1630, Williams, CA 95987.	(530) 473–3274	(530) 473–3301	*cww281@gmail.com.*

Koi Nation of Northern California (Previously Lower Lake Rancheria).	Darin Beltran, Chairperson.	P.O. Box 3162, Santa Rosa, CA 95402.	(707) 575–5586	(707) 575–5506.	
La Jolla Band of Luiseno Indians.	Social Services Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(707) 749–5518	*kkolb@indianhealth.com.*
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation.	Indian Child Social Services Director.	4058 Willow Rd., Alpine, CA 91903.	(619) 445–1188	(619) 445–0765.	
Cahto Tribe of the Laytonville Rancheria.	Mary J. Norris, Chairperson.	P.O. Box 1239, Laytonville, CA 95454.	(707) 984–6197, Ext. 104.	(707) 984–6201	*chairman@cahto.org.*
Iipay Nation of Santa Ysabel.	Linda Ruis, Director	P.O. Box 701, Santa Ysabel, CA 92070.	(760) 765–1106	(760) 765–0312	*lipayinfo@yahoo.com.*
Lone Pine Paiute Shoshone Tribe.	Mary Weuster, Chairperson.	P.O. Box 747, Lone Pine, CA 93545.	(760) 876–1034	(760) 876–8302	*chair@lppsr.org.*
Los Coyotes Band of Cahuilla & Cupeno Indians.	Social Services Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Lytton Rancheria	Liz DeRouen	2525 Cleveland Ave, Suite H, Santa Rosa, CA 95403.	(707) 544–8509	(707) 544–8729	*lizderouen@sbcglobal.net.*
Middletown Rancheria of Pomo Indians of California.	Christine Dukatz, ICWA Director/ Tribal Administrator.	P.O. Box 623, Point Arena, CA 95468.	(707) 882–2788, Ext. 405.	(707) 882–3417	*christi.dukatz@gmail.com.*
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation.	Angela Santos, Acting Chairperson.	P.O. Box 1302, Boulevard, CA 91905.	(619) 766–4930	(619) 766–4957	*ljbirdsinger@aol.com.*
Mechoopda Indian Tribe of the Chico Rancheria.	Dennis Ramirez, Chairman.	125 Mission Ranch Boulevard, Chico, CA 95926.	(530) 899–8922	(530) 899–8517	*mit@mechoopda@nsn.us.*
Mesa Grande Band of Mission Indians of the Mesa Grande Reservation.	Social Services Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Middletown Rancheria of Pomo Indians of California.	Mary Comito, ICWA Director.	P.O. Box 1829, Middletown, CA 95461.	(707) 987–8288; (707) 326–6876.	(707) 987–8205	*mcomito@ middletownrancheria.com.*
Mooretown Rancheria of Maidu Indians of California.	Benjamin Clark, Tribal Chairman.	1 Alverda Drive, Oroville, CA 95966.	(530) 533–3625	(530) 533–3680	*lwinner@mooretown.org.*
Morongo Band of Cahuilla Mission Indians.	Paula Tobler, Social Worker.	11581 Potrero Road, Banning, CA 92220.	(951) 849–4697	(951) 922–0338.	
Northfork Rancheria of Mono Indians of California.	Gary Walker, Chairman.	P.O. Box 929, Fort Birdswell Fork, CA 96112.	(559) 877–2461	(559) 877–2467	*nfrancheria@ northforkrancheria-nsn.gov.*
Pala Band of Mission Indians.	Robert Smith, Chairman.	35008 Pala-Temecula Road, PMB–50, Pala, CA 92059.	(760) 891–3500	(760) 891–3587.	
Paskenta Band of Nomlaki Indians.	Natasha Magana, Tribal Member at Large.	P.O. Box 709, Corning, CA 96021.	(530) 528–3538	(530) 528–3553	*office@paskenta.org.*
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation.	Social Service Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation.	Mark Macarro, Chairman.	P.O. Box 1477, Temecula, CA 92593.	(951) 676–2768	(951) 695–1778.	
Picayune Rancheria of Chukchansi Indians of California.	Jennifer Ruiz, Chairperson.	P.O. Box 2146, Oakhurst, CA 93644.	(559) 412–5590	(559) (559) 440–6494.	*info@chukchansi-nsn.gov.*

Pinoleville Pomo Nation.	Clayton Freeman, ICWA Coordinator.	500B Pinoleville Drive, Ukiah, CA 95482.	(707) 463–1454, Ext. 123.	(707) 463–6601	*claytonf@pinoleville-nsn.gov.*
Pit River Tribe	Agnes Gonzalez, Chairperson.	36970 Park Avenue, Burney, CA 96013.	(530) 335–5421	(530) 335 3140	*administrator@pitrivertribe.org.*
Potter Valley Tribe ..	Salvador Rosales, Tribal Chairman.	2251 South State Street, Ukiah, CA 95482.	(707) 462–1213	(707) 462–1240	*pvtsecretary@pottervalleytribe.com.*
Quartz Valley Indian Community of the Quartz Valley Reservation.	Conrad Croy, ICWA Director.	13601 Quartz Valley Rd., Fort Jones, CA 96032.	(530) 468–5907, Ext. 312.	(530) 468–5908	*Conrad.Croy@qvir-nsn.gov.*
Ramona Band of Cahuilla.	Joseph Hamilton, Chairman.	P.O. Box 391670 Anza, CA 92539.	(951) 763–4105	(951) 763–4325.	
Redding Rancheria	Jack Potter, Jr., Chairman; Hope Wilkes, Senior Director of Program Services.	2000 Rancheria Road, Redding, CA 96001–5528.	(530) 225–8979, Ext. 1101.	(530) 241–1879	*hopew@redding-rancheria.com.*
Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria.	Chris Piekarski, ICWA Coordinator.	3250 Road I, "B" Building, Redwood Valley, CA 95470.	(707) 485–0361	(707) 485–5726	*icwa@rvrpomo.net.*
Resighini Rancheria	Fawn Murphy, President.	P.O. Box 529, Klamath, CA 95548.	(707) 482–2431	(707) 482–3425	*resighini@gmail.com.*
Rincon Band of Luiseno Mission Indians of the Rincon Reservation.	Social Services Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Robinson Rancheria Band of Pomo Indians.	Marsha Lee, ICWA Coordinator.	P.O. Box 4015, Nice, CA 95464.	(707) 275–0527	(707) 275–0235.	
Round Valley Indian Tribes, Round Valley Reservation.	James Russ, President.	77826 Covelo Road, Covelo, CA 95428.	(707) 983–6126	(707) 983–6128	*president@council.rvit.org.*
San Manuel Band of Mission Indians.	Tribal Secretary	26569 Community Center Drive, Highland, CA 92346.	(909) 864–8933	(909) 864–0890	*broberson@sanmanual-nsn.gov.*
San Pasqual Band of Diegueno Mission Indians.	Social Services Manager.	P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Santa Rosa Band of Cahuilla Indians.	Steven Estrada, Tribal Chairperson.	P.O. Box 391820, Anza, CA 92539.	(951) 659–2700	(951) 689–2228	*srtribaloffice@aol.com.*
Santa Rosa Indian Community of the Santa Rosa Rancheria.	Ruben Barrios, Chairman.	P.O. Box 8, Lemoore, CA 93245.	(559) 924–1278	(559) 925–2931.	
Santa Ynez Band of Mission Indians.	Caren Romero, ICWA Representative.	90 Via Juana Lane, Santa Ynez, CA 93460.	(805) 694–2671	(805) 686–2060	*cromero@sythc.com.*
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation.	Kenneth Khan, Chairman.	P.O. Box 517, Santa Ynez, CA 93460.	(805) 688–7997	(805) 686–9578	*info@sybmi.org.*
Santa Ysabel Band of Mission Indians-Iipay Nation.	Linda Ruis, Director	P.O. Box 701, Santa Ysabel, CA 92070.	(760) 765–1106	(760) 765–0312.	
Scotts Valley Band of Pomo Indians.	Kathy Russ, ICWA Advocate.	301 Industrial Ave., Lakeport, CA 95453.	(707) 263–4220	(707) 263–4345.	
Sherwood Valley Rancheria of Pomo Indians of California.	Michael Knight, Chairman; Travis Wright, ICWA Advocate.	190 Sherwood Hill Drive, Willits, CA 95490.	(707) 459–9690	(707) 459–6936	*svrchairman@sherwoodband.com; twright@sherwoodband.com.*
Shingle Springs Band of Miwok Indians (Shingle Springs Rancheria).	Regina Cuellar, Chairman.	P.O. Box 1340, Shingle Springs, CA 95682.	(530) 698–1400	(530) 387–8064	*tribalchairperson@ssband.org.*

Soboba Band of Luiseno Indians.	Alicia Golchuk, Director of Soboba Tribal Family Services.	P.O. Box 487, San Jacinto, CA 92581.	(951) 487–0283	(951) 487–1738	*agolchuk@soboba-nsn.gov.*
Susanville Indian Rancheria.	Deana M. Bovee', Tribal Chairwoman.	745 Joaquin St., Susanville, CA 96130.	(530) 257–6264	(530) 257–7986	*dbovee@sir-nsn.gov.*
Sycuan Band of Mission Indians.	Indian Child Social Services Director.	4058 Willow Rd., Alpine, CA 91903.	(619) 445–1188	(619) 445–0765.	
Sycuan Band of the Kumeyaay Nation.	Cody Martinez, Chairman.	1 Kwaaypaay Court, El Cajon, CA 92019.	(619) 445–2613	(619) 445–1927	*emartinez@sycuan-nsn.gov.*
Table Mountain Rancheria.	Leanne Walker-Grant, Chairperson.	P.O. Box 410, Friant, CA 93626.	(559) 822–2587	(559) 822–2693.	
Tejon Indian Tribe ...	Octavio Escobedo, Chairperson.	1731 Hasti Acres Drive, Suite 108, Bakersfield, CA 93309.	(661) 834–8566	(661) 834–8564	*office@tejontribe.net.*
Death Valley Timbisha Shoshone Tribe.	Wallace Eddy, ICWA Representative.	621 West Line Street, Suite 109, Bishop, CA 93514.	(760) 872–3614	(760) 872–3670	*icwa@timbisha.com.*
Tolowa Dee-ni' Nation.	Denise Richards-Padgette, Chairman.	140 Rowdy Creek Road, Smith River, CA 95567.	(707) 487–9255	(707) 487–0930	*Briannon.Fraley@tolowa.com.*
Torres Martinez Desert Cahuilla Indians.	Thomas Tortez, Chairman.	P.O. Box 1160, Thermal, CA 92274.	(760)-397–0300	(760) 397–8146	*thomas.tortez@torresmartinez-nsn.gov.*
Cher-Ae Heights Indian Community of the Trinidad Rancheria.	Amy Atkins, Executive Manager.	P.O. Box 630, Trinidad, CA 95570.	(760) 397–0300	(760) 397–8146	*aatkins@trinidadrancheria.com.*
Tule River Indian Tribe of the Tule River Reservation.	Neil Peyron, Chairman.	P.O. Box 589, Porterville, CA 93258.	(559) 781–4271, Ext. 1013.	(559) 781–4610	*Neil.Peyron@tulerivertribe-nsn.gov.*
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.	Kevin Day, Chairman.	P.O. Box 699, Tuolumne, CA 95379.	(209) 928–3475	(209) 928–1677	*tmtc@mlode.com.*
Twenty-Nine Palms Band of Mission Indians.	Darrell Mike, Spokesman.	46–200 Harrison Place, Coachella, CA 92236.	(760) 863–2444	(760) 863–2449.	
Berry Creek Rancheria of Maidu Indians.	Maria Ramirez, ICWA Director & Tribal Representative.	5 Tyme Way, Oroville, CA 95966.	(530) 534–3859	(530) 534–0343	*mramirez@berrycreekrancheria.com.*
United Auburn Indian Community of the Auburn Rancheria of California.	Gene Whitehouse, Chairman.	10720 Indian Hill Road, Auburn, CA 95603.	(530) 883–2390	(530) 833–2380	*jbeck@auburnrancheria.com.*
Utu Utu Gwaitu Paiute Tribe of the Benton Reservation.	Tina Braithwaite, Chairperson.	25669 Highway 6, PMB 1, Benton, CA 93512.	(760) 933–2321	(760) 933–2412.	
Capitan Grande Band of Diegueno Mission Indians of California: Viejas.	Indian Child Social Services Director.	4058 Willow Rd., Alpine, CA 91903.	(619) 445–1188	(619) 445–0765.	
Wilton Rancheria	Vanessa Pady, Director.	ICWA 9728 Kent St., Elk Grove, CA 95624.	(707) 683–6000, Ext. 2014.	(916) 683–6015	*vpady@wiltonrancheria-nsn.gov.*
Wiyot Tribe	Theodore Hernandez, Chairperson.	1000 Wiyot Drive, Loleta, CA 95551.	(707) 733–5055	(707) 733–5601	*michelle@wiyot.us.*
Yocha Dehe Wintun Nation.	James Kinter, Tribal Council Secretary.	P.O. Box 18, Brooks, CA 95606.	(530) 796–3400	(530) 796–2143	*djones@yochadehe-nsn.gov.*
Yurok Tribe of the Yurok Reservation.	Stephanie Weldon, Social Services Director.	P.O. Box 1027, Klamath, CA 95548.	(707) 482–1350, ext. 1415, Social Services.	(707) 482–1368	*sweldon@yuroktribe.nsn.us.*

* As of date of publication, there is no recognized government for this federally recognized tribe. Please contact Bureau of Indian Affairs, Pacific Regional Director for up to date information.

9. Rocky Mountain Region

Rocky Mountain Regional Director, 2021 4th Avenue N, Billings, MT 59101; Phone: (406) 247–7943; Fax: (406) 247–7976.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Blackfeet Tribe of Montana.	Kathy Calf Boss Ribs, ICWA Coordinator; Darlene H. Peterson, ICWA Inquiry Technician.	P.O. Box 588, Browning, MT 59417.	(406) 338–7806	(406) 338–7726	*kathybossribs@yahoo.com.*
Chippewa Cree Tribe of the Rocky Boy's Reservation of Montana.	Shaneen Raining Bird Hammond, ICWA Case Manager.	31 Agency Square, Box Elder, MT 59521.	(406) 395–5709	(406) 395–5702	*rainingbirds@yahoo.com.*
Crow Agency	Jackie Yellow Tail, ICWA Coordinator.	P.O. Box 159, Crow Agency, MT 59022.	(406) 679–0989	.....	*JackieYellowtail@crow-nsn.gov.*
Eastern Shoshone Tribe of the Wind River Reservation.	Amella Oldman, ICWA Coordinator.	P.O. Box 1796, Fort Washakie, WY 82514.	(307) 332–6591	(307) 332–6593	*artoldman@gmail.com.*
Fort Belknap Indian Community.	Myron L. Trottier, ICWA Case Manager.	656 Agency Main Street, Harlem, MT 59526.	(406) 353–8328	(406) 353–4634	*mtrottier@ftbelknap.org.*
Fort Peck Assiniboine and Sioux Tribes.	Phyllis Spotted Wolf, ICWA Coordinator.	P.O. Box 1027, Poplar, MT 59255.	(406) 768–2308	(406) 768–3710	*pspottedwolf@fortpecktribes.net.*
Northern Arapaho Tribe of the Wind River Reservation.	June Shakespeare, ICWA Coordinator.	P.O. Box 77, St. Stevens, WY 82524.	(307) 857–5728	(307) 857–5741	*june.shakespeare@wyo.gov.*
Northern Cheyenne Tribe.	Michelle Littlewolf Sandcrane, Acting ICWA Coordinator.	P.O. Box 128, Lame Deer, MT 59043.	(406) 477–4830; (406) 477–4828.	(406) 477–8333	*Michelle.littlewolf@cheyennenation.com.*

10. Southern Plains Region

Southern Plains Regional Director, P.O. Box 368, Anadarko, OK 73005; Phone: (405) 247–6673 Ext. 217; Fax: (405) 247–5611.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Absentee-Shawnee Tribe of Oklahoma Indians.	William Starr, ICW Director.	2025 S. Gordon Cooper Drive, Shawnee, OK 74801.	(405) 395–4490	(405) 395–4495	*williams@astribe.com.*
Alabama Coushatta Tribe of Texas.	Melissa Celestine, ICW Director.	571 State Park Road, #56, Livingston, Texas 77351.	(936) 563–1253	(936) 563–1254	*celestine.melissa@actribe.org.*
Apache Tribe of Oklahoma (Kiowa).	Shannon Ahtone, ICW Director.	P.O. Box 369, Carnegie, Oklahoma 73015.	(580) 654–2439	(580) 654–2363	*shannon_kiowa_icw@yahoo.com.*
Caddo Nation of Oklahoma (Wichita & Affiliated Tribes).	Pamela Satepauhoodle, ICW Caseworker.	P.O. Box 729, Anadarko, OK 73005.	(405) 247–8624	(405) 247–3256	*pamela.satepauhoodle@wichitatribe.com.*
Cheyenne and Arapaho Tribes of Oklahoma.	Rachel Felter, ICW Coordinator.	P.O. Box 27, Concho, OK 73022.	(405) 422–7557	(405) 422–8249	*rfelter@c-a-tribes.org.*
Citizen Potawatomi Nation.	Janet Draper, ICW Director.	1601 S. Gordon Cooper Drive, Shawnee, OK 74801.	(405) 878–4831	(405) 878–4659	*jdraper@potawatomi.org.*
Comanche Nation-Oklahoma.	Carol Mithlo, ICW Director.	P.O. Box 908, Lawton, OK 73502.	(580) 280–4751	(580) 354–0808	*carolm@comanchenation.com.*
Delaware Nation	Cassandra Acuna, ICW Director.	P.O. Box 825, Anadarko, OK 73005.	(405) 247–2448, Ext. 1152.	(405) 247–5942	*cacuna@delawarenation.com.*
Fort Sill Apache Tribe of Oklahoma.	ICWA Coordinator	43187 US Highway 281, Apache, OK 73006.	(580) 522–2298, Ext. 109.	(580) 588–2106	*canioleys@yahoo.com.*
Iowa Tribe of Kansas	Native American Family Services, Chairperson.	3303 B. Thrasher Rd., White Cloud, KS 66094.	(785) 595–3260	(785) 595–6610	
Iowa Tribe of Oklahoma.	Tamara Hudgins, ICW Director.	Rt. 1, Box 721, Perkins, OK 74059.	(405) 547–2402	(405) 547–1032	*thudgins@iowanation.org.*
Kaw Nation	Lebrandia Lemley, ICW Director.	Drawer 50, Kaw City, Oklahoma 74641.	(580) 269–2003	(580) 269–2113	*llemley@kawnation.com.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Kickapoo Traditional Tribe of Texas.	Arianna Perez, ICW Director.	2212 Rosita Valley Road, Eagle Pass, Texas 78852.	(830) 421–6300	.....	*arianna.perez@ktttribe.org.*
Kickapoo Tribe of Indians of The Kickapoo Reservation in Kansas.	Timothy Oliver, ICW Director.	P.O. Box 271, Horton, KS 66439.	(785) 486–2131	.....	*timothy.oliver@ktik-nsn.gov.*
Kickapoo Tribe of Oklahoma.	Nathie Wallace, Indian Child Welfare Director.	P.O. Box 469, McLoud, OK 74851.	(405) 964–5426	(405) 964–5431	
Kiowa Tribe of Oklahoma.	Shannon Ahtone, ICW Director.	P.O. Box 369, Carnegie, Oklahoma 73015.	(580) 654–2439	(580) 654–2363	*shannon_kiowa_icw@yahoo.com.*
Otoe-Missouria Indian Tribe of Oklahoma.	Andrea Kihega, ICW Director.	8151 Highway 177, Red Rock, OK 74651.	(580) 723–4466, Ext. 256 or Cell Phone: (580) 307–7303.	(580) 723–1016	*akihega@omtribe.org.*
Pawnee Nation of Oklahoma.	Amanda Farren, ICWA Director.	P.O. Box 470, Pawnee, OK 74058.	(918) 762–3621, Ext. 175.	.....	*afarren@pawneenation.org*
Ponca Tribe of Oklahoma.	Stephanie Ruminer, ICWA Director.	20 White Eagle Drive, Ponca City, OK 74601.	(580) 763–0133	(580) 763–0134	*ptoicw@gmail.com.*
Prairie Band of Potawatomi Nation.	Tammy Sweeney, ICW Director.	16281 Q. Road, Mayetta, KS 66509.	(785) 966–2932, Ext. 8325.	(786) 966–2950	*tammysweeney@pbpnation.org.*
Sac and Fox Nation in Kansas and Nebraska.	Chasity Davis, ICW Director.	305 N. Main Street, Reserve, KS 66434.	(785) 742–4708	(785) 288–1163	*cdavis@sacandfoxcasino.com.*
Sac and Fox Nation, Oklahoma.	Karen Hamilton, ICW Director.	215 North Harrison, Shawnee, Ok 74801.	(918) 968–3526, Ext. 1711.	405–395–0858	*karen.hamilton@sacandfoxnation-nsn.gov.*
Tonkawa Tribe of Oklahoma.	Christi Gonzalez, ICW Director.	P.O. Box 70, Tonkawa, OK 74653.	(580) 628–7025	(580) 628–7025	*cgonzalez@tonkawatribe.com.*
Wichita and Affiliated Tribe of Oklahoma.	Joan Williams, ICW Director.	P.O. Box 729, Anadarko, OK 73005.	(405) 247–8627	(405) 247–3256	*joan.williams@wichitatribe.com.*

11. Southwest Region

Southwest Regional Director, 1001 Indian School Road NW, Albuquerque, NM 87104; Phone: (505) 563–3103; Fax: (505) 563–3101

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Jicarilla Apache Nation.	Gina Keeswood, ICWA Specialist.	P.O. Box 1520, Dulce, NM 87528.	(575) 759–1712	(575) 759–3757	*gkeeswood@jbhd.org.*
Mescalero Apache Tribe.	Isabel Guerrero, ICWA Case Manager.	P.O. Box 228, Mescalero, NM 88340.	(575) 464–4334	(575) 464–9331	*iguerrero@mescaleroapachetribe.com.*
Pueblo of Acoma	Brianna Fank, Child Welfare Specialist.	P.O. Box 354, Acoma, NM 87034.	(505) 552–5161	(505) 552–0903	*bfank@poamail.org.*
Pueblo of Cochiti	Tanya Devon Torres, ICWA Specialist.	P.O. Box 70, Cochiti Pueblo, NM 87072.	(505) 465–3139	(505) 465–3173	*tanya_torres@pueblodecochiti.org.*
Pueblo of Isleta	Caroline Dailey, Social Services Director.	P.O. Box 1270, Isleta, NM 87022.	(505) 869–2772; (505) 869–5283.	(505) 869–7575	*poi05001@isletapueblo.com.*
Pueblo of Isleta	Jacqueline Yalch, ICWA Coordinator.	P.O. Box 1270, Isleta, NM 87022.	(505) 869–2772; (505) 869–5283.	(505) 869–7575	*poi05001@isletapueblo.com.*
Pueblo of Jemez	Annette Gachupin, Child Advocate.	P.O. Box 340, Jemez Pueblo, NM 87024.	(575) 834–7117	(575) 834–7103	*agachupin@jemezpueblo.us.*
Pueblo of Laguna	Tracy Zamora, Social Services Specialist.	P.O. Box 194, Laguna, NM 87026.	(505) 552–6513; (505) 552–5677.	(505) 552–6387	*tzamora@lagunapueblo-nsn.gov.*
Pueblo of Nambe	Julie Bird, ICWA Manager.	15A NP 102 West, Santa Fe, NM 87506.	(505) 445–4446	(505) 455–4449	*ICWA@nambepueblo.org.*
Pueblo of Picuris	Deborah Shemayme, ICWA Director.	P.O. Box 127, Penasco, NM 87553.	(575) 288–9047	(575) 587–1003	*icwa@picurispueblo.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Pueblo of Pojoaque	Elizabeth Duran, Social Services Director.	58 Cities of Gold Rd., Suite 4, Santa Fe, NM 87506.	(505) 455–0238	(505) 455–2363	*eduran@pojoaque.org.*
Pueblo of San Felipe.	Darlene J. Valencia, Family Services Director/ICWA Representative.	P.O. Box 4339, San Felipe Pueblo, NM 87004.	(505) 771–9900 Ext. 1150.	(505) 771–9978	*dvalencia@sfpueblo.com.*
Pueblo of San Ildelfonso.	Trever Mehege. ICWA/Family Advocate.	02 Tunyo Po, Santa Fe, NM 87506.	(505) 455–4164; (505) 699–0164.	*icwamanager@sanipueblo.org.*.	
Ohkay Owingeh	Rochelle Thompson, ICWA Manager.	P.O. Box 1187, Ohkay Owingeh, NM 87566.	(575) 852–6108	(505) 692–0333	*Rochelle.thompson@ohkay.org.*
Pueblo of Sandia	Shara Moscinska, BH Manager.	481 Sandia Loop, Bernalillo, NM 87004.	(505) 771–5131	(505) 867–7099	*smoscinska@sandiapueblo.nsn.us.*
Pueblo of Santa Ana	Theresa Ortiz, Social Services Manager.	02 Dove Road, Santa Ana Pueblo, NM 87004.	(505) 771–6737	(505) 771–6537	*Theresa.Ortiz@santaana-nsn.gov.*
Pueblo of Santa Clara.	Dennis Silva, Director of Social Services.	P.O. Box 580, Espanola, NM 87532.	(505) 753–0419	(505) 753–0420	*dsilva@santaclarapueblo.org.*
Pueblo of Santo Domingo-Kewa.	Virginia Tenorio, Family Services Worker.	P.O. Box 129, Santo Domingo, NM 87052.	(505) 465–0630	(505) 465–2554	*vtenorio@kewa-nsn.us.*
Pueblo of Santo Domingo-Kewa.	Doris Bailon, Social Services Director.	P.O. Box 129, Santo Domingo, NM 87052.	(505) 465–0630	(505) 465–2554	*dbailon@kewa-nsn.us.*
Pueblo of Taos	Stacie Waters, ICWA Manager.	P.O. Box 1846, Taos, NM 87571.	(575) 758–7824	(575) 758–3346	swaters@taospueblo.com.
Pueblo of Tesuque ..	Donna Quintana, ICWA Director.	Route 42, Box 360–T, Santa Fe, NM 87506.	(505) 469–0173	(505) 820–7780	*donna.quintana@puebloftesuque.org.*
Pueblo of Zia	David P. Montoya, Social Services/ICWA Program Manager.	135 Capital Square Drive, Zia Pueblo, NM 87053.	(505) 401–8142	(505) 867–3308	*dmontoya@ziapueblo.org.*
Pueblo of Zuni	April Seciwa, Interim Social Services Director.	P.O. Box 339, Zuni, NM 87327.	(505) 782–7166	(505) 782–7221	*April.Seciwa@ashiwi.org.*
Southern Ute Indian Tribe.	Julianne Begay, Social Services Attorney.	MS 53, P.O. Box 737, Ignacio, CO 81137.	(970) 563–0100 Ext. 2144.	(970) 563–4854	*jbegay@southernute-nsn.gov.*
Ute Mountain Ute Tribe (Colorado & Utah).	Tywana Billie Lopez, UMU Social Services Director.	P.O. Box 309, Towaoc, CO 81334.	(970) 564–5307	(970) 564–5300	*tbillie@utemountain.org.*
Ysleta Del Sur Pueblo.	Leah Lopez, LMSW-Supervisor.	9314 Juanchido Ln., El Paso, TX 79907.	(915) 860–6170	(915) 242–6556	*llopez@ydsp-nsn.gov.*

12. Western Region

Western Regional Director, 2600 North Central Avenue, Phoenix, AZ 85004; Phone: (602) 379–6600; Fax: (602) 379–4413.

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Ak-Chin Indian Community.	Dorissa Garcia, Enrollment Coordinator.	42507 West Peters & Nall Road, Maricopa, AZ 85138.	(520) 568–1074	(520) 568–1079	*dgarcia@ak-chin.nsn.us.*
Battle Mountain Band Council.	Tammy Carrera, Social Services Director.	37 Mountain View Drive, Battle Mountain, NV 89820.	(775) 635–2004, Ext. 108.	(775) 635–8528	*bmbssd2018@outlook.com.*
Chemehuevi Indian Tribe.	Dawn McElwain, ICWA Director.	P.O. Box 1976, Havasu Lake, CA 92363.	(760) 858–5426	(760) 858–5400	*icwa@cit-nsn.gov.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Cocopah Indian Tribe.	Rafael D. Morales, Jr., ICWA Worker.	14515 South Veterans Drive, Somerton, AZ 85350.	(928) 627–3729	(928) 627–3316	*moralesr@cocopah.com.*
Colorado River Indian Tribes.	Rebecca Loudbear, Attorney General.	26600 Mohave Road, Parker, AZ 85344.	(928) 669–1271	(928) 669–5675	*rloudbear@critdoj.com.*
Confederated Tribes of the Goshute Reservation.	Jeanine Hooper, Social Services/ ICWA Director.	HC61 Box 6104, Ibapah, UT 84034.	(833) 228–6509	(435) 234–1219	*jeanine.hooper@ctgr.us.*
Duckwater Shoshone Tribe.	Brenda O'Neil, Assistant Health Manager.	P.O. Box 140087, Duckwater, NV 89314.	(775) 863–0222	(775) 863–0142	*brenda.oneil@ihs.gov.*
Elko Band Council of Te-Moak Tribe.	Marlene Dick, Social Worker.	1745 Silver Eagle Drive, Elko, NV 89801.	(775) 738–9310	(775) 778–3397	*ssworker@elkoband.org.*
Ely Shoshone Tribe	Georgia Valdez, Social Services Worker.	250B Heritage Drive, Ely, NV 89301.	(775) 289–4133	(775) 289–3237	
Fallon Paiute-Shoshone Tribe.	Patricia Henry, ICWA Representative.	1007 Rio Vista Drive, Fallon, NV 89406.	(775) 423–1215	(775) 423–8960	*yfsdirector@fpst.org.*
Fort McDermitt Paiute-Shoshone Tribe.	Alena Dave, ICWA Advocate.	P.O. Box 68, McDermitt, NV 89421.	(775) 532–8263, Ext. 111.	(775) 532–8060	*alenadave83@gmail.com.*
Fort McDowell Yavapai Nation.	James Esquirell, ICWA Coordinator/CPS Worker Wassaja Family Services.	P.O. Box 17779, Fountain Hills, AZ 85269.	(480) 789–7990	(480) 837–4809	*jesquirell@ftmcdowell.org.*
Fort Mojave Indian Tribe.	Melvin Lewis, Sr., Social Services Director.	500 Merriman Avenue, Needles, CA 92363.	(928) 346–1550 or Toll Free (866) 346–6010.	(928) 346–1552	*ssdir@ftmojave.com.*
Gila River Indian Community.	Antoinette Enos, ICWA Case Manager.	P.O. Box 427, Sacaton, AZ 85147.	(520) 562–3396	(520) 562–3633	*antoinette.enos@gric.nsn.us.*
Havasupai Tribe	Rita Uqualla, ICWA Coordinator.	P.O. Box 10, Supai, AZ 86435.	(928) 448–2661	(928) 448–2551	*hticwa@havasupai-nsn.gov.*
Hopi Tribe	Eva Sekayumptewa, Social Services Program, Clinical Supervisor.	P.O. Box 945, Polacca, AZ 86042.	(928) 734–3000	(928) 734–1157	*esekayumptewa@hopi.nsn.us.*
Hualapai Tribe	Idella Keluche, ICWA Worker.	P.O. Box 480, Peach Springs, AZ 86434.	(928) 769–2269/ 2383/2384/2397.	(928) 769–2659	*ikeluche@hualapai-nsn.gov.*
Kaibab Band of Paiute Indians.	Jennie K. Kalauli, Social Services Director.	HC 65 Box 2, Fredonia, AZ 86022.	(928) 643–8320	(888) 939–3777	*jkalauli@kaibabpaiute-nsn.gov.*
Las Vegas Paiute Tribe.	Constance Holdip, Social Services.	1257 Paiute Circle, Las Vegas, NV 89106.	(702) 382–0784, Ext. 410.	(702) 384–5272	*choldip@lvpaiute.com.*
Lovelock Paiute Tribe.	Maribel Morales, ICWA Case Worker.	P.O. Box 878, Lovelock, NV 89419.	(775) 273–7861, Ext. 14.	(775) 273–3802	*icwa@lovelocktribe.com.*
Moapa Band of Paiutes.	Gregory T. Anderson, Sr., Chairman.	P.O. Box 340, Moapa, NV 89025.	(702) 865–2787	(702) 865–2875	*chair.mbop@moapabandofpaiutes.org.*
Paiute Indian Tribe of Utah.	Tyler Goddard, Health Director.	440 North Paiute Drive, Cedar City, UT 84721.	(435) 586–1112	(435) 238–4262	*tgoddard@fourpointshealth.org.*
Pascua Yaqui Tribe	Tamara Walters, Assistant Attorney General.	7777 S. Camino Huivisim, Bldg. C, Tucson, AZ 85757.	(520) 883–5108	(520) 883–5084	*tamara.walters@pascuayaqui-nsn.gov.*
Pyramid Lake Paiute Tribe.	Charlene Dressler, Social Services Director.	P.O. Box 256, Nixon, NV 89424.	(775) 574–1047	(775) 574–1052	*cdressler@plpt.nsn.us.*
Quechan Indian Tribe.	Cody I. Hartt, ICWA Specialist/Tribal Representative.	P.O. Box 1899, Yuma, AZ 85366.	(760) 570–0201	(760) 572–2099	*icwaspecialist@quechantribe.com.*
Reno-Sparks Indian Colony.	Adriana Botello, Human Services Director.	405 Golden Lane, Reno, NV 89502.	(775) 329–5071	(775) 785–8758	*abotello@rsic.org.*

Tribe	ICWA POC	Mailing address	Phone No.	Fax No.	Email address
Salt River Pima-Maricopa Indian Community.	Allison Miller, ICWA Coordinator.	10005 East Osborn Road, Scottsdale, AZ 85256.	(480) 362–5645; (480) 362–7533.	(480) 362–5574	*Allison.Miller@srpmic-nsn.gov.*
San Carlos Apache Tribe.	Aaron Begay, ICWA Coordinator.	P.O. Box 0, San Carlos, AZ 85550.	(928) 475–2313	(928) 475–2342	*abegay09@tss.scat-nsn.gov.*
San Juan Southern Paiute Tribe.	Mary Lou Boone, Enrollement Officer.	P.O. Box 2950, Tuba City, AZ 86045.	(928) 212–9794	(928) 233–8948	*m.boone@sanjuanpaiute-nsn.gov.*
Shoshone-Paiute Tribes of the Duck Valley Reservation.	Roberta Hanchor, Social Worker.	P.O. Box 219, Owyhee, NV 89832.	(775) 757–2921	(775) 757–2910	*hanchor.roberta@shopai.org.*
Skull Valley Band of Goshute Indians.	Stormey Goddard, ICWA/Social Services Worker.	407 Skull Valley Road, Skull Valley, UT 84029.	(801) 502–3110	.....	*stormeyg@svgoshutes.com.*
South Fork Band, Te-Moak of Western Shoshone.	Cheryl Mose-Temoke, Acting Interim Social Worker.	21 Lee, B–13, Spring Creek, NV 89815.	(775) 744–4273, Ext. 2 or 107.	(775) 744–4523	*sforkcouncil.admin@gmail.com.*
Summit Lake Paiute Tribe.	Randi DeSoto, Chairwoman.	1001 Rock Blvd., Sparks, NV 89431.	(775) 827–9670	(775) 827–9678	*randi.desoto@summitlaketribe.org.*
Tohono O'odham Nation.	Joshua Rees, Attorney General.	P.O. Box 830, Sells, AZ 85634.	(520) 383–3410	(520) 383–2689	*joshua.rees@tonation-nsn.gov.*
Tonto Apache Tribe of Arizona.	Belinda Guerra, ICWA Coordinator.	T.A.R. #30, Payson, AZ 85541.	(928) 474–5000, Ext. 8127.	(928) 474–9125	*bguerra@tontoapache.org.*
Ute Indian Tribe	Floyd M. Wyasket, Social Services Director.	P.O. Box 925, Fort Duchesne, UT 84026.	(435) 725–4054	(435) 722–5030	*floydw@utetribe.com.*
Washoe Tribe of Nevada and California.	Stacy L. Stahl, Social Services Director.	919 Hwy 395 N, Gardenville, NV 89410.	(775) 265–8691	(775) 265–4593	*Stacy.Stahl@washoetribe.us.*
Walker River Paiute Tribe.	Elliott Aguilar, ICWA Specialist.	P.O. Box 146, 1025 Hospital Road, Schurz, NV 89427.	(775) 773–2058	(775) 773–2096	*eaguilar@wrpt.gov.*
Wells Band Council, Te-Moak of Western Shoshone.	Alicia Kooi, Social Services Coordinator.	P.O. Box 809, Wells, NV 89835.	(775) 752–3045, Ext. 1009.	(775) 752–2179	*wellsbandssicwa@gmail.com.*
White Mountain Apache Tribe.	Cora Hinton, ICWA Representative/ CPS Supervisor.	P.O. Box 1870, Whiteriver, AZ 85941.	(928) 338–4164	(928) 338–1469	*chinton@wmat.us.*
Winnemucca Tribe ..	Judy Rojo, Chairperson.	595 Humboldt Street, Reno, NV 89509.	(775) 329–5800	(775) 329–5819	
Yavapai-Apache Nation.	Delight Lyons, ICWA Coordinator.	2400 West Datsi Street, Camp Verde, AZ 86322.	(928) 649–7108	(928) 567–6832	*dkplunkett@yan-tribe.org.*
Yavapai-Prescott Indian Tribe.	Marie James, Family Support Supervisor.	530 East Merritt, Prescott, AZ 86301.	(928) 515–7351	(928) 541–7945	*mariejames@ypit.com.*
Yerington Paiute Tribe.	Nathaniel Landa, Human Services Director.	171 Campbell Lane, Yerington, NV 89447.	(775) 783–0200, Ext. 360.	(775) 463–5929	*nlanda@ypt-nsn.gov.*
Yomba Shoshone Tribe.	Belinda Hooper, Social Services Eligibility Worker.	HC 61 Box 6275, Austin, NV 89310.	(775) 964–2463, Ext. 117.	(775) 964–1352	*yombasocialservices@gmail.com.*

B. Tribal Agents by Tribal Affiliation

See: http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm.

Dated: April 26, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–09611 Filed 5–8–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A51010.999900]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 6.94 acres, more or less, an addition to the reservation of the Shakopee Mdewakanton Sioux Community of Minnesota on April 17, 2019.

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 Shakopee Mdewakanton Sioux Community of Minnesota Reservation in Scott County, Minnesota.

Shakopee Mdewakanton Sioux Community of Minnesota Reservation

Fifth Principal Meridian, Scott County, Minnesota

Legal description containing 6.94 acres, more or less

Kinlock Parcel, 411 T 1024
Outlot A, Church 1st Addition, Scott County, Minnesota.

The above described lands contain a total of 6.94 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, highways, public utilities, railroads and pipelines, or any other valid easements or rights-of-way or reservations of record.

Dated: April 17, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–09610 Filed 5–8–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A51010.999900]

Proclaiming Certain Lands as Reservation for the Sault Ste. Marie Tribe of Chippewa Indians

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 0.115 acres, more or less, an addition to the reservation of the Sault Ste. Marie Tribe of Chippewa Indians, on April 17, 2019.

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 (505) 563–3132.

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 Sault Ste. Marie Tribe of Chippewa Indians' Reservation in Chippewa County, Michigan.

Sault Ste. Marie Tribe of Chippewa Indians' Reservation

Michigan Meridian, Chippewa County, Michigan

Legal Description Containing 0.115 Acres, More or Less

Fletcher's Addition Lot 5 Block 2 (469–T–72)
Fletcher's Addition Lot 5, Block 2, Section 8, Township 47 North, Range 1 East.

The above-described lands contain a total of 0.115 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: April 17, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–09609 Filed 5–8–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Pueblo of Isleta Leasing Law

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On April 17, 2019, the Bureau of Indian Affairs (BIA) approved the Pueblo of Isleta's (Tribe) Leasing Law under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agricultural, residential, business, wind and solar, wind energy evaluation, and other authorized purposes leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW, Washington, DC 20240, at (505) 563–3132.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Pueblo of Isleta, New Mexico.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72,440, 72,447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by

the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' See *Seminole Tribe of Florida* v. *Stranburg,* No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan* v. *Bay Mills Indian Community,* 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Pueblo of Isleta, New Mexico.

Dated: April 17, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–09608 Filed 5–8–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-27818; 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 April 27, 2019, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by May 24, 2019.

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 April 27, 2019. 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:

IOWA

Cedar County

Downey School, 212 Broadway St., Downey, SG100004017

MISSOURI

Nodaway County

Fields, John and Fannie, House, 227 McKenzie St., Barnard, SG100004018

MONTANA

Silver Bow County

Silver Bow Airway Beacon (Sentinels of the Airways: Montana's Airway Beacon System, 1934–1979 MPS), Address Restricted, Ramsay, MP100004023

NEW YORK

Erie County

Buffalo Public School No. 51 (Black Rock Planning Neighborhood MPS), 101 Hertel Ave., Buffalo, MP100004010

Seneca Plumbing and Heating Company Building, 192 Seneca St., Buffalo, SG100004011

Niagara County

First Presbyterian Church of Lewiston and Lewiston Village Cemetery, 505 Cayuga St., Outerlot 17 Cayuga & Outerlot 18 Seneca, Lewiston, SG100004012

PENNSYLVANIA

Allegheny County

Lawrenceville Historic District, Roughly bounded by 33rd St, Allegheny R, 55th St., Allegheny Cemetery, Penn Ave., 40th St., Liberty Ave., and Sassafras St., Pittsburgh City, SG100004020

Miller, Andrew S. and Elizabeth, House, 366 Lincoln Ave., Bellevue, SG100004021

TEXAS

Cameron County

Central Brownsville Historic District, Roughly bounded by E. Levee, E. 10th, E. Monroe, E. 14th & E. 15th Sts. & 2 blk. Extension along 800 & 900 blks. of E. Elizabeth St., Brownsville, SG100004008

Uvalde County

Uvalde Downtown Historic District, Centered around jct. of US 90 & US 83, roughly bounded by School Ln., Hornby Pl., 2nd Alley & High St., Uvalde, SG100004009

WISCONSIN

Door County

ADVANCE shipwreck (Barge), (Great Lakes Shipwreck Sites of Wisconsin MPS), 0.1 mi. E. of Sand Bay Peninsula, Sand Bay, Nasewaupee vicinity, MP100004024

Sauk County

Nisham, Freda Meyers, Memorial Chapel, 1000 Myrtle St., Reedsburg, SG100004016

A request for removal has been made for the following resource:

IOWA

Benton County

Round Barn, Bruce Township Section 6 (Iowa Round Barns: The Sixty Year Experiment TR), W of US 218, La Porte vicinity, OT86001416

Additional documentation has been received for the following resources:

ARKANSAS

Benton County

Gypsy Camp Historic District (Benton County MRA), Off AR 59, Siloam Springs vicinity, AD87002425

NORTH CAROLINA

Wake County

Hayes Barton Historic District (Five Points Neighborhoods, Raleigh, North Carolina MPS), Roughly bounded by St. Mary's St., Fairview Rd., Aycock St., Scales St. and Williamson Dr., Raleigh, AD02000496

Authority: Section 60.13 of 36 CFR part 60.

Dated: April 30, 2019.

Kathryn G. Smith,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2019–09539 Filed 5–8–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Replacement Automotive Service and Collision Parts and Components Thereof, DN 3386;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Hyundai Motor America, Inc., and Hyundai Motor Company on May 3, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain replacement automotive service and collision parts and components thereof. The complaint names as respondents: Direct Technologies International, Inc. d/b/a DTI, Inc. of North Miami Beach, FL; AJ Auto Spare Parts FZE of Dubai, United Arab Emirates; John Auto Spare Parts Co. LLC of Sharjah, United Arab Emirates; and Cuong Anh Co. Ltd. of Vietnam. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3386'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 3, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–09518 Filed 5–8–19; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1090]

Certain Intraoral Scanners and Related Hardware and Software; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a Final Initial Determination on Section 337 Violation and a Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, should the Commission find a violation. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 (''Section 337'') provides that if the Commission finds a violation it shall exclude the articles concerned from the United States unless the public interest factors listed in 19 U.S.C. 1337(d)(1) prevent such action. A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation, specifically, a limited exclusion order and a cease and desist order directed against certain infringing intraoral scanners and related hardware and software imported by respondents 3Shape A/S and 3Shape Trios A/S, both of Copenhagen K, Denmark, and 3Shape, Inc. of Warren, New Jersey.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on April 26, 2019. Comments should address whether issuance of a limited exclusion order and a cease and desist order in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) Identify like or directly competitive articles that complainant, complainant's licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) Explain how the recommended orders would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on June 7, 2019. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)).

Submissions should refer to the investigation number (''Inv. No. 337–TA–1090'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 6, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–09571 Filed 5–8–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

On May 6, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States of America, New Jersey Department of Environmental Protection, and Administrator of the New Jersey Spill Compensation Fund* v. *Ford Motor Co. and the Borough of Ringwood,* Civil Action No. 2:19–cv–12157.

The United States seeks reimbursement of response costs incurred under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') for response actions at or in connection with the release or threatened release of hazardous substances at Operable Unit 2 of the Ringwood Mines/Landfill Superfund Site (the ''Site'') in Ringwood, New Jersey.

Under the proposed consent decree, Settling Defendants will remove contaminated soil and install caps at three locations within the Site: The Peters Mine Pit Area, the Cannon Mine Pit Area, and the O'Connor Disposal Area. In conjunction with the soil remediation, the Borough of Ringwood will install a recycling center on the O'Connor Disposal Area. The proposed consent decree requires Ford Motor Company to pay approximately $5.7 million for past response costs of both the United States and the State of New Jersey. The proposed consent decree will resolve the United States' CERCLA claims alleged in this action, and the New Jersey Department of Environmental Protection's Spill Act claims alleged in this action. The proposed consent decree will not resolve claims related to groundwater contamination at the Site, which will be addressed at a future point.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *United States of America, New Jersey Department of Environmental Protection, and Administrator of the New Jersey Spill Compensation Fund* v. *Ford Motor Co. and the Borough of Ringwood,* D.J. Ref. No. 90–11–3–830/1. All comments must be submitted no later than sixty (60) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $44.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–09565 Filed 5–8–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On May 1, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District

Court for the District of South Carolina in the lawsuit entitled *United States et al.* v. *Exxon Mobil Oil Corp.,* Civil Action No. 2:19–cv–1273–RMG.

The Consent Decree resolves claims brought against Exxon Mobil Oil Corporation for recovery of damages for injury to, loss of, or destruction of natural resources under the trusteeship of the National Oceanic and Atmospheric Administration, the Department of the Interior, the South Carolina Department of Health and Environmental Control, and the South Carolina Department of Natural Resources. The claims were filed under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607 and under the South Carolina Hazardous Waste Management Act, South Carolina Code of Laws, Ann., Section 44–56–200 (Rev. 2018). Plaintiffs sought damages in order to compensate for injury to, destruction of, loss of, or loss of use of certain natural resources resulting from the release of hazardous substances at nine defined sites located in South Carolina. The proposed Consent Decree resolves the Trustees' claim for all nine sites for $6,589,211.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Exxon Mobil Oil Corp.,* D.J. Ref. No. 90–11–3–11910. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD. P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–09526 Filed 5–8–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before June 10, 2019.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2019–005–C.

Petitioner: Castle Valley Mining LLC, P.O. Box 475, 5550 W Bear Canton Rd., Huntington, Utah 84528.

Mine: Castle Valley Mine No. 3, MSHA I.D. No. 42–02263, located in Emery County, Utah.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in or inby the last open crosscut.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and similar low-voltage battery-operated total stations if they have an ingress protection (IP)

rating of 66 or greater in or inby the last open crosscut, subject to the Proposed Decision and Order (PDO):

—Sokkia Electronic Total Station Model CX–103

(b) Nonpermissible electronic surveying equipment will only be used until equivalent permissible electronic surveying equipment is available. The equipment allowed is low-voltage or battery-powered nonpermissible total stations. All nonpermissible electronic total stations will have an IP rating of 66 or greater.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153, and the examination results will be recorded in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in or inby the last open crosscut will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn outby the last open crosscut. All requirements of 30 CFR 75.323 will be complied with prior to entering in or inby the last open crosscut.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rocked-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, methane tests will be made in accordance with 30 CFR 75.323.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in or inby the last open crosscut. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in intake air outby the last open crosscut. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in the last open crosscut is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in or inby the last open crosscut. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000–23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. The operator will replace or retire from service any electronic surveying equipment that was acquired between January 1, 2005 and December 31, 2010 within 2 years of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the

operator will replace or retire from service any total station or the other electronic surveying equipment identified in the PDO that was acquired more than 10 years prior to the date that the PDO became final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment that will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in or inby the last open crosscut, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing or curtains, where coal is being mined.

—Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.

—Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–006–C.

Petitioner: Castle Valley Mining LLC, P.O. Box 475, 5550 W Bear Canyon Rd., Huntington, Utah 84528.

Mine: Castle Valley Mine No. 3, MSHA I.D. No. 42–02263, located in Emery County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, within 150 feet of pillar workings and longwall faces.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and similar low-voltage battery-operated total stations if they have an ingress protection (IP) rating of 66 or greater within 150 feet of pillar workings or longwall faces, subject to the Proposed Decision and Order (PDO):

—Sokkia Electronic Total Station Model CX–103

(b) Nonpermissible electronic surveying equipment will only be used until equivalent permissible electronic surveying equipment is available. The equipment allowed is low-voltage or battery-powered nonpermissible total stations. All nonpermissible electronic total stations will have an IP rating of 66 or greater.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153, and the examination results will be recorded in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn further than 150 feet from pillar workings and longwall faces. All requirements of 30 CFR 75.323 will be complied with prior to entering within 150 feet of pillar workings or longwall faces.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rocked-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, methane tests will be made in accordance with 30 CFR 75.323.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings or longwall faces. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, within 150 feet of pillar workings or longwall faces is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000–23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. The operator will replace or retire from service any electronic surveying equipment that was acquired between January 1, 2005 and December 31, 2010 within 2 years of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any total station or the other electronic surveying equipment identified in the PDO that was acquired more than 10 years prior to the date that the PDO became final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment that will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as

tubing or curtains, where coal is being mined.

—Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.

—Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2019–09536 Filed 5–8–19; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Advisory Committee on Veterans' Employment, Training, and Employer Outreach

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Notice of ACVETEO Charter renewal.

SUMMARY: In accordance with the U.S. Code, and the provisions of the Federal Advisory Committee Act (FACA) and its implementing regulations issued by the U.S. General Services Administration (GSA), the Secretary of Labor is renewing the charter for the Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO).

SUPPLEMENTARY INFORMATION: The ACVETEO's responsibilities are to: (a) Assess employment and training needs of veterans and their integration into the workforce; (b) determine the extent to which the programs and activities of the Department of Labor (DOL) are meeting such needs; (c) assist the Assistant Secretary for Veterans' Employment and Training (ASVET) in conducting outreach to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans; (d) make recommendations to the Secretary of Labor, through the ASVET, with respect to outreach activities and the employment and training needs of veterans; and (e) carry out such other activities deemed necessary to making required reports and recommendations under section 4110(f) of Title 38, U.S. Code.

Per section 4110(c)(1) of Title 38, U.S. Code, the Secretary of Labor shall appoint at least twelve, but no more than sixteen, individuals to serve as Special Government Employees of the ACVETEO as follows: Seven individuals, one each from the following organizations: (i) The Society for Human Resource Management; (ii) the Business Roundtable; (iii) the National Association of State Workforce Agencies; (iv) the United States Chamber of Commerce; (v) the National Federation of Independent Business; (vi) a nationally recognized labor union or organization; and (vii) the National Governors Association. The Secretary shall appoint not more than five individuals nominated by veterans' service organizations that have a national employment program and not more than five individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of DOL. Members will serve as Special Government Employees.

The ACVETEO will function in compliance with the provisions of the FACA, and its charter will be filed under the FACA. For more information, contact Gregory B. Green, Designated Federal Official, ACVETEO, U.S. Department of Labor, 200 Constitution Ave NW, Washington, DC 20210; via email to Mr. Gregory Green at *green.gregory.b@dol.gov* or telephone (202) 693–4734.

Joseph Shellenberger,

Deputy Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2019–09562 Filed 5–8–19; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (19–027)]

NASA Advisory Council; STEM Engagement Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Science, Technology, Engineering and Mathematics (STEM) Engagement Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Tuesday, May 28, 2019, 12:00 noon–3:30 p.m., Eastern Time.

ADDRESSES: Virtual meeting by dial-in teleconference and WebEx only.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Girten, Designated Federal Officer, NAC STEM Engagement Committee, NASA Headquarters, Washington, DC 20546, (202) 358–0212, or *beverly.e.girten@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be virtual and will be available telephonically and by WebEx only. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 1–844–467–6272 or toll access number 1–720–259–6462, and then the numeric participant passcode: 423307 followed by the # sign. To join via WebEx, the link is: *https://nasaenterprise.webex.com/nasaenterprise/* the meeting number is 907 492 943 and the password is NACstem#28 (Password is case sensitive.) *Note:* If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Opening Remarks by Chair
—STEM Education Advisory Panel
—STEM Engagement Update
—National Space Council Meeting Update
—Sparking Interest in STEM
—Findings and Recommendations to the NASA Advisory Council
—Other Related Topics

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2019–09586 Filed 5–8–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (19–026)]

NASA Federal Advisory Committees; Notice of Committees Re-Establishment Pursuant to the Federal Advisory Committee Act

AGENCY: National Aeronautics and Space Administration.

The Administrator of the National Aeronautics and Space Administration (NASA) has determined that the re-establishment of four (4) NASA Federal advisory committees under the Federal Advisory Committee Act (FACA) is necessary and in the public interest in connection with the performance of duties imposed upon NASA by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration. These four committees were originally established and their charters filed by NASA on January 17, 2017. These four committees and their charters expired on January 17, 2019, during the partial shutdown of the U.S. Government.

Name of Federal Advisory Committees: Astrophysics Advisory Committee; Heliophysics Advisory Committee; Earth Science Advisory Committee; and Planetary Science Advisory Committee.

Purpose and Objectives: Each of the four (4) NASA Federal advisory committees will advise NASA on scientific matters within the scope of its respective area of responsibility. Specifically, the scientific matters involve NASA research programs, policies, plans, and priorities pertaining to Astrophysics, Heliophysics, Earth Science, and Planetary Science. The four (4) NASA Federal advisory committees will function solely as advisory bodies and will comply fully with the provisions of FACA.

Membership: Membership of each of the four (4) NASA Federal advisory committees and any subordinate groups formed under each committee shall consist of Special Government Employees, Regular Government Employees, or Representatives. They will be chosen from among academia, government and industry with demonstrated and well-recognized knowledge, expertise and experience in fields relevant to their respective scientific disciplines. The membership of each Federal advisory committee will be fairly balanced in terms of points of view represented and functions to be performed. Diversity shall be considered as well.

Duration: Each of the four (4) NASA Federal advisory committees is a discretionary committee and is envisioned to be continuing entity subject to charter renewals every two years.

Responsible NASA Official: Dr. T. Jens Feeley, Science Mission Directorate, NASA Headquarters, (202) 358–1714 or *jens.feeley@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. T. Jens Feeley, Science Mission Directorate, NASA Headquarters, (202) 358–1714 or *jens.feeley@nasa.gov.*

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2019–09486 Filed 5–8–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Materials Research (DMR) (#1203)—2-Dimensional Crystal Consortium (2DCC), Materials Innovation Platform (MIP), Pennsylvania State University (Site Visit).

Date and Time: May 21, 2019; 8:00 a.m.–8:00 p.m., May 22, 2019; 8:00 a.m.–3:00 p.m.

Place: Pennsylvania State University, University Park, PA 16802.

Type of Meeting: Part Open.

Contact Person: Dr. Charles Ying, Program Director, Division of Materials Research, National Science Foundation, Room E9467, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone (703) 292–8428.

Purpose of Meeting: Site visit to provide advice and recommendations concerning further support of the MIP at Pennsylvania State University.

Agenda

Tuesday, May 21, 2019

8:00 a.m.–9:15 a.m. Closed—Executive Session
9:15 a.m.–11:30 a.m. Open—Review of 2DCC MIP
11:30 a.m.–1:00 p.m. Closed—Executive Session
1:00 p.m.–4:00 p.m. Open—Review of 2DCC MIP
4:00 p.m.–8:00 p.m. Closed—Executive Session

Wednesday, May 22, 2019

8:00 a.m.–3:00 p.m. Closed—Executive Session

Reason for Late Notice of Meeting: Due to unforeseen scheduling complications and the necessity to proceed with the review of the program.

Reason for Closing: The work being reviewed during closed portions of the site review includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with 2DCC/MIP. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 3, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–09513 Filed 5–8–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9075–MLA; NRC–2019–0117]

Atomic Safety and Licensing Board; in the Matter of Powertech USA, Inc.; Dewey-Burdock in Situ Uranium Recovery Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order to set a schedule for an evidentiary hearing in the Powertech USA, Inc., Dewey-Burdock In Situ Uranium Recovery Facility proceeding. The Order for Granting NRC Staff Motion and Scheduling Evidentiary Hearing became effective on April 29, 2019.

DATES: The Order was issued on April 29, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0117 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0117. Address questions about NRC Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; e-mail: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://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 e-mail to *pdr.resource@nrc.gov.*
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Taylor Mayhall, ASLBP, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3027, e-mail: *Taylor.Mayhall@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 6th day of May 2019.

For the Nuclear Regulatory Commission.

William J. Froehlich,

Chairman, Administrative Judge.

Attachment—Order

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman

Dr. Mark O. Barnett

G. Paul Bollwerk, III

In the Matter of: POWERTECH USA, INC., (Dewey-Burdock In Situ Uranium Recovery Facility) Docket No. 40-9075-MLA ASLBP No. 10-898-02-MLA-BD01, April 29, 2019.

ORDER

(Granting NRC Staff Motion and Scheduling Evidentiary Hearing)

On April 3, 2019, the Nuclear Regulatory Commission Staff (NRC Staff) filed a motion to set a schedule for an evidentiary hearing in the above-captioned proceeding.[1] Responses to the NRC Staff's motion were filed on April 17, 2019, by licensee Powertech USA, Inc. (Powertech) and the NRC Staff,[2] and on April 18, 2019, by intervenor Oglala Sioux Tribe.[3] The Licensing Board conducted an all-parties telephone conference call on April 23, 2019, where issues raised by the NRC Staff's April 3, 2019 motion were aired.[4]

I. Background

The Oglala Sioux Tribe first raised its concern about the protection of cultural and religious resources in a proposed contention filed in 2010.[5] This contention challenged the adequacy of the NRC Staff's assessment of the impacts to Native American cultural, religious, and historical resources from Powertech's Dewey-Burdock In Situ Uranium recovery facility. Pursuant to the National Environmental Policy Act (NEPA), the NRC Staff issued its Draft Supplemental Environmental Impact Statement (DSEIS) on November 26, 2012, and its Final Supplemental Environmental Impact Statement (FSEIS) on January 29, 2014. The Board then held an evidentiary hearing in Rapid City, South Dakota, from August 19–21, 2014, on this contention and six other admitted contentions.[6] On April 30, 2015, the Board issued a Partial Initial Decision on the merits of those contentions.[7] As relevant to this contention (now Contention 1A), the Board found that the NRC Staff failed to fulfill its NEPA obligation because the FSEIS did ''not contain an analysis of the impacts of the project on the cultural, historical, and religious sites of the Oglala Sioux Tribe. . . .'' [8] The Board concluded that ''[w]ithout additional analysis as to how the Powertech project may affect the Sioux Tribes' cultural, historical, and religious connections with the area, NEPA's hard look requirement ha[d] not been satisfied, and potentially necessary mitigation measures ha[d] not been established.'' [9] The Commission affirmed the Board's Partial Initial Decision.[10]

On October 30, 2018, the Licensing Board issued LBP–18–5, which denied both the Oglala Sioux Tribe's and NRC Staff's motions for summary disposition of Contention 1A. LBP-18-5 presented the parties with the choice to either resume efforts to implement the site survey approach that had been previously agreed-upon by all parties (March 2018 Approach) or proceed to an evidentiary hearing.[11] On November 30, 2018, the NRC Staff informed the Board that it chose to renew its efforts to implement the March 2018 approach.[12] In periodic status calls, the parties

[1] [NRC Staff] Motion to Set Schedule for Evidentiary Hearing (Apr. 3, 2019) [hereinafter NRC Staff Motion].

[2] [Powertech] Response to NRC Staff's Motion for Evidentiary Hearing (Apr. 17, 2019); NRC Staff Response to the Board's April 5, 2019 Order (Apr. 17, 2019). The NRC Staff's response was authorized by the Board to permit the NRC Staff to answer two questions about which the Board indicated it wished to have party responses. *See* Licensing Board Order (Setting Procedures to Address Motion to Set Schedule for Evidentiary Hearing) (Apr. 5, 2019) at 2 n.6 (unpublished).

[3] Oglala Sioux Tribe's Response in Opposition to NRC Staff's Motion to Set Schedule for Evidentiary Hearing (Apr. 18, 2019) [hereinafter Oglala Sioux Tribe Response]. Although Consolidated Intervenors did not file a responsive pleading, the NRC Staff reported that Consolidated Intervenors opposed the motion. *See* NRC Staff Motion at 2.

[4] Tr. at 1628–73.

[5] Petition to Intervene and Request for Hearing of the Oglala Sioux Tribe (Apr. 6, 2010) at 12–17.

[6] LBP–15–16, 81 NRC 618, 633 (2016).

[7] *Id.* at 708–11.

[8] *Id.* at 655.

[9] *Id.*

[10] CLI–16–20, 84 NRC 219 (2016).

[11] *See* LBP–18–5, 89 NRC 95, 134–37 (2018).

[12] Letter from Lorraine Baer, NRC Staff Counsel, to Licensing Board (Nov. 30, 2018) (ADAMS Accession No. ML18334A295).

reported to the Licensing Board regarding their progress on efforts to implement the March 2018 Approach.[13] At the March 21, 2019 teleconference, the NRC Staff announced that ''the staff has not the reasonable expectation of agreement with the tribe on this matter'' and that ''the appropriate way to document this inability to reach an agreement would probably be on the record of an evidentiary hearing.'' [14] The NRC Staff's April 3, 2019 motion requests an evidentiary hearing to resolve the disputed issues of fact as to the reasonableness of the NRC Staff's proposed draft methodology for the conduct of a site survey to identify sites of historic, cultural, and religious significance to the Oglala Sioux Tribe and the reasonableness of the NRC

Staff's determination that the information it seeks to obtain from the site survey is unavailable.[15]

II. Ruling on Motion

Although a licensing board can identify a deficiency in the NRC Staff's NEPA analysis that requires correction, it generally cannot direct the NRC Staff on a particular approach to rectify that deficiency.[16] Nor can a board require the NRC Staff to continue to negotiate with a party that may have some role in the NRC Staff's efforts to meet its statutory obligations under NEPA. Here, the NRC Staff has concluded that further negotiation as to a methodology to resolve this contention is unlikely to be successful and has moved to proceed to an evidentiary hearing. The NRC Staff states:

> the hearing should resolve the disputed issues of fact as to the reasonableness of the NRC Staff's proposed draft methodology for the conduct of a site survey to identify sites of historic, cultural, and religious significance to the Oglala Sioux Tribe, and the reasonableness of the NRC Staff's determination that the information it seeks to obtain from the site survey is unavailable.[17]

Up until very recently the NRC Staff had been pursuing a negotiated resolution to obtain the data missing from the EIS in this case. Now, apparently having reached what it considers a firm impasse with the Oglala Sioux Tribe in that negotiation process, the NRC Staff has decided to proceed to an evidentiary hearing regarding the circumstances associated with the absent information's accessibility. Cognizant of the agency's obligation to ensure the NEPA-required ''hard-look'' is taken or a legally sufficient explanation is placed in the record as to why the information required for such a ''hard look'' is missing from the EIS and was not reasonably available,[18] the NRC Staff has requested authority to proceed to an evidentiary hearing. Given the deference we generally must accord the NRC Staff in its choice of how to address identified NEPA deficiencies,[19] the motion to set a schedule for an evidentiary hearing is *granted*.

III. Hearing Procedures

Pursuant to 10 C.F.R. § 2.312, the Atomic Safety and Licensing Board hereby provides notice that it will hold an evidentiary hearing under 10 C.F.R. Part 2, Subpart L procedures to receive oral testimony and exhibits in this proceeding.[20] Parties to this proceeding shall provide evidentiary submissions in support of or in opposition to the merits of the disputed issues of fact. An evidentiary hearing is established to resolve the disputed issues of fact as to the reasonableness of the NRC Staff's proposed draft methodology for the conduct of a site survey to identify sites of historic, cultural, and religious significance to the Oglala Sioux Tribe, and the reasonableness of the NRC Staff's determination that the information it seeks to obtain from the site survey is unavailable. The evidence presented should address the criteria in 40 C.F.R. §1502.22 pertaining to incomplete or unavailable information.

The schedule for the submission of prepared testimony and other procedural dates leading up to the evidentiary hearing is attached as Appendix A to this Order.[21]

The Board will take oral testimony beginning on Wednesday, August 28, 2019, at 10:00 a.m. MDT and continue daily as necessary through Friday, August 30, 2019, at 5:00 p.m. MDT.

The evidentiary hearing will take place at the Hotel Alex Johnson, 523 Sixth Street, Rapid City, South Dakota 57701.

Members of the public and media are welcome to attend and observe the evidentiary hearing, which may involve technical, scientific, legal, and regulatory issues and testimony. Participation in the hearing will be limited to the parties, their lawyers, and witnesses. Please be aware that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases or backpacks. No signs, banners, posters, or other displays will be permitted in the hearing room.[22] Also, in line with the Board's previous notice,[23] no firearms will be permitted in the hearing room.

It is so ORDERED.

THE ATOMIC SAFETY AND LICENSING BOARD

William J. Froehlich, Chairman,
Administrative Judge.

Dr. Mark O. Barnett,
Administrative Judge.

G. Paul Bollwerk, III,
Administrative Judge.

Rockville, Maryland
April 29, 2019.

APPENDIX A: SCHEDULE—*Powertech USA, Inc.* (Dewey-Burdock In Situ Uranium Recovery Facility) Proceeding

[13] Tr. at 1460–1517 (Dec. 6, 2018); Tr. at 1518–54 (Jan. 29, 2019); Tr. at 1555–1627 (Mar. 21, 2019); Tr. at 1628–73 (Apr. 23, 2019).

[14] Tr. at 1619–20.

[15] *See* LBP–18–5, 89 NRC at 128–30.

[16] *See, e.g., Carolina Power and Light Co.* (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4), CLI-80-12, 11 NRC 514 (1980) (explaining that adjudicatory boards do not have authority to ''direct the staff in performance of their administrative functions''); *Duke Energy Corp.* (Catawba Nuclear Station, Units 1 & 2), CLI–04–6, 59 NRC 62 (2004) (''[L]icensing boards do not sit to correct NRC Staff misdeeds or to supervise or direct NRC Staff regulatory reviews.''); *Offshore Power Systems* (Floating Nuclear Power Plants), ALAB–489, 8 NRC 194 (1978) (clarifying the extent of NRC Staff's ''independent responsibility for preparing impact statements'').

[17] NRC Staff Motion at 2.

[18] *See Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989); 40 C.F.R. § 1502.22.

[19] In its response to the NRC Staff's motion, the Oglala Sioux Tribe raised the issue of whether the NRC Staff is required, prior to any hearing, to issue an SEIS explaining its conclusion as to why the cultural resources information being sought is unavailable. *See* Oglala Sioux Tribe Response at 10–18. During the telephone conference, the NRC Staff indicated it considers the appropriate way to document this conclusion is in the context of its evidentiary hearing submissions, Tr. at 1636, although the prospect seemingly exists that, if issued in draft for comment contemporaneously with the NRC Staff's initial evidentiary hearing submissions, such a supplement could be finalized prior to the scheduled beginning of the hearing, potentially resolving that concern altogether.

[20] Although Powertech suggested that the hearing be held using only written submissions, Tr. at 1658–60; *see* 10 C.F.R. § 2.1208, given such a request can only be entertained if there is unanimous consent of the parties, *see id.* § 2.1206, the objection of Consolidated Intervenors to this proposal, Tr. at 1662, precludes its further consideration.

[21] In the near term, the Licensing Board will amend its June 2, 2014 case management information Order in this case to provide the parties with updated procedures for marking their proposed exhibits. *See* Licensing Board Order (Providing Case Management Information) (June 2, 2014) (unpublished).

[22] *See* Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 Fed. Reg. 31,719 (June 12, 2001).

[23] Atomic Safety and Licensing Board; Notice (Regarding Weapons at Atomic Safety and Licensing Board Proceedings), 79 Fed. Reg. 45,849 (Aug. 6, 2014).

Event	Date
All Parties Status Conference	April 23, 2019.
Evidentiary Hearing Schedule:	
Position Statement/Prefiled Direct Testimony from NRC Staff	May 17, 2019.
Response Position Statements/Prefiled Direct Testimony Supporting NRC Staff's Prefiled Direct Testimony	May 22, 2019
Response Position Statements/Prefiled Response Testimony Opposing NRC Staff's Prefiled Testimony and any Supporting Prefiled Testimony.	June 28, 2019.
Reply Position Statement/Prefiled Reply Testimony from NRC Staff	July 12, 2019.
Proposed Cross-Examination Questions/Requests for Cross-Examination/In Limine Motions on Direct/Response/Reply Testimony Due.	August 2, 2019.
Responses to Requests for Cross-Examination and In Limine Motions on Direct/Response/Reply Testimony Due	August 9, 2019.
Licensing Board Ruling on Requests for Cross-Examination and In Limine Motions	August 19, 2019.
Evidentiary Hearing	August 28–30, 2019.[24]
Proposed Findings of Fact/Conclusions of Law Due	September 27, 2019.
Reply Findings of Fact/Conclusions of Law Due	October 11, 2019.
Licensing Board Initial Decision	November 29, 2019.

[FR Doc. 2019–09532 Filed 5–8–19; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0190]

Program-Specific Guidance About Commercial Radiopharmacy Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Revision 2 to NUREG–1556, Volume 13, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Commercial Radiopharmacy Licenses.'' Volume 13 of NUREG–1556 has been revised to include information on updated regulatory requirements, safety culture, security of radioactive materials, protection of sensitive information, and changes in regulatory policies and practices consistent with current regulations. This volume is intended for use by applicants, licensees, and the NRC staff.

DATES: NUREG–1556, Volume 13, Revision 2, was published in March 2019.

ADDRESSES: Please refer to Docket ID NRC 2016–0190, when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0190. Address questions about NRC 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* NUREG–1556, Volumes 13, Revision 2, is located at ADAMS Accession Number ML18180A187. This document is also available on the NRC's public website at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/* under ''Consolidated Guidance About Materials Licenses (NUREG–1556).''
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Anthony McMurtray, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2746; email: *Anthony.McMurtray@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC issued a revision to NUREG–1556, Volumes 13, to provide guidance to existing materials licensees covered under commercial radiopharmacy licenses and to applicants preparing an application for a commercial radiopharmacy license. This NUREG volume also provides the NRC staff with criteria for evaluating commercial radiopharmacy license applications. The purpose of this notice is to notify the public that the NUREG–1556 volume listed in this document was issued as a final report.

II. Additional Information

The NRC published a notice of the availability of the draft report for comment version of NUREG–1556, Volume 13, Revision 2 in the **Federal Register** on January 24, 2017 (82 FR 8227), with a public comment period of 59 days. The public comment period closed on March 24, 2017. Public comments and the NRC staff responses

[24] A final Board assessment regarding the length of the evidentiary hearing will await the receipt of the parties' direct, response, and reply testimony.

to the public comments for NUREG–1556, Volume 13, Revision 2 are available in ADAMS under Accession No. ML18305B303.

III. Congressional Review Act

This NUREG volume is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found this NUREG revision to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 2nd day of May 2019.

For the Nuclear Regulatory Commission.

Andrea L. Kock,

Director, Division of Materials Safety, Security, State and Tribal Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–09485 Filed 5–8–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on June 10, 2019, to discuss: (1) The revisions to the ACMUI bylaws and (2) the draft report of the ACMUI Regulatory Guide 8.39 Subcommittee. This report will include the subcommittee's comments and recommendations on Phase 1 of the revisions to Regulatory Guide 8.39, ''Release of Patients Administered Radioactive Material.'' A phased approach is being conducted by the NRC staff to comprehensively update Regulatory Guide 8.39. Phase 1 of the revision provides licensees with more detailed instructions to patients before and after they have been administered radioactive material than what is currently provided in Regulatory Guide 8.39. Meeting information, including a copy of the agenda and handouts, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2019.html.* The agenda and handouts may also be obtained by contacting Ms. Kellee Jamerson using the information below.

DATES: The teleconference meeting will be held on Monday, June 10, 2019, 2:00 p.m. to 4:00 p.m. Eastern Time.

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Jamerson using the contact information below or may register for the GoToWebinar for the June 10, 2019, meeting at *https://attendee.gotowebinar.com/register/8147066000509193473.*

Contact Information: Kellee Jamerson, email: *Kellee.Jamerson@nrc.gov,* telephone: (301) 415–7408.

Conduct of the Meeting

Dr. Christopher Palestro, ACMUI Chairman, will preside over the meeting. Dr. Palestro will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Jamerson at the contact information listed above. All submittals must be received by June 4, 2019, three business days prior to the June 10, 2019, meeting, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting at the discretion of the Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's website *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2019.html* on or about July 23, 2019.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in 10 CFR part 7.

Dated: May 6, 2019.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–09525 Filed 5–8–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0103]

Information Collection: Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.''

DATES: Submit comments by July 8, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0103. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6–A10M, 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: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0103 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–2019–0103.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR)

reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML19022A224.

• *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0103 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions 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, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 11, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.''

2. *OMB approval number:* 3150–0062.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* N/A.

5. *How often the collection is required or requested:* On Occasion.

6. *Who will be required or asked to respond:* Employees (including applicants for employment), contractors, and consultants of NRC licensees and contractors whose activities involve access to, or control over, special nuclear material at either fixed sites or for transportation activities.

7. *The estimated number of annual responses: 357.*

8. *The estimated number of annual respondents: 2.*

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 89.

10. *Abstract:* The NRC's regulations in Part 11 of title 10 of the *Code of Federal Regulations* (10 CFR), establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. The specific Part 11 requirements covered under this OMB clearance include requests for exemptions to Part 11 requirements, amendments to security plans that require incumbents to have material access authorizations, access authorization cancellations. In addition, licensees must keep records of the names and access authorization numbers of certain individuals assigned to shipments of special nuclear material. The information required by 10 CFR part 11 is needed to establish control over and maintain records of who is properly authorized to safeguard and have access to special nuclear material. Not knowing this information could cause harm to the public and national security.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 6th day of May 2019.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–09587 Filed 5–8–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0215]

Information Collection: Rules of General Applicability to Domestic Licensing of Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''10 CFR part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material.''

DATES: Submit comments by July 8, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0215. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: O–1 F21, 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: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0215 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–2018–0215.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The supporting statement is available in ADAMS under Accession No. ML18353B644.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV*.

B. Submitting Comments

Please include Docket ID NRC–2018–0215 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions 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, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Rules of General Applicability to Domestic Licensing of Byproduct Material.''
2. *OMB approval number:* 3150–0017.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* Required reports are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 15 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.
6. *Who will be required or asked to respond:* All persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.
7. *The estimated number of annual responses:* 155,164 (24,322 NRC Licensee responses [1,272 reporting responses + 2,800 for recordkeeping + 20,250 third-party disclosures] and 130,842 Agreement State Licensee responses [6,973 reporting responses + 16,500 for recordkeeping + 107,369 third-party disclosures]).
8. *The estimated number of annual respondents:* 19,300 (2,800 NRC licensees and 16,500 Agreement State licensees).
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 228,279 (NRC licensees 35,291 hours [16,439 hours for reporting + 16,792 hours for recordkeeping + 2,060 hours for third-party disclosures] and Agreement State licensees 192,988 hours [90,343 hours for reporting + 91,627 hours for recordkeeping + 11,018 hours for third-party disclosures]).
10. *Abstract:* 10 CFR part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 6th day of May 2019.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–09585 Filed 5–8–19; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85770; File No. SR–MIAX–2019–21]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 100, Definitions, Rule 200, Trading Permits, Rule 402, Criteria for Underlying Securities, Rule 403, Withdrawal of Approval of Underlying Securities and Rule 519, MIAX Order Monitor

May 3, 2019.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2019, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to make a number of minor, non-substantive edits to Exchange Rule 100, Definitions, Rule 200, Trading Permits, Rule 402, Criteria for Underlying Securities, Rule 403, Withdrawal of Approval of Underlying Securities and Rule 519, MIAX Order Monitor, for purposes of clarification and uniformity.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 100, Definitions, to make a minor non-substantive edit to the definition for Electronic Exchange Member in order to provide consistency and clarity within the rule text. Currently, Exchange Rule 100 defines Electronic Exchange Member as follows:

> The term ''Electronic Exchange Member'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act.[3]

The Exchange proposes to amend the definition for Electronic Exchange Member in Exchange Rule 100 to insert the abbreviation for Electronic Exchange Member as ''EEM'' to provide consistency and clarity within MIAX's rulebook. With the proposed change, the definition for Electronic Exchange Member would be as follows:

> The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act.

The proposed change would align the rule text for the definition of an Electronic Exchange Member with the rulebook for MIAX, which uses the EEM abbreviation for an Electronic Exchange Member in other Exchange rules.

The Exchange also proposes to amend Exchange Rule 100, Definitions, to make minor non-substantive edits to harmonize the rule text to that of the Exchange's affiliate, MIAX Emerald, LLC (''MIAX Emerald''). Currently, Exchange Rule 100 does not include definitions for the Exchange's affiliates, MIAX Emerald and MIAX PEARL, LLC (''MIAX PEARL''). In order to ensure conformity, the Exchange proposes to amend Exchange Rule 100 to adopt definitions for MIAX Emerald and MIAX PEARL that are nearly identical to rule text found in MIAX Emerald Rule 100.

MIAX proposes to adopt the following definition for MIAX Emerald to be included in Exchange Rule 100: ''The term 'MIAX Emerald' means MIAX Emerald, LLC.'' MIAX proposes to adopt the following definition for MIAX PEARL to be included in Exchange Rule 100: ''The term 'MIAX PEARL' means MIAX PEARL, LLC.'' The Exchange believes that adopting the definitions of the Exchange's affiliates, MIAX Emerald and MIAX PEARL, in Exchange Rule 100 creates consistency among MIAX, MIAX Emerald and MIAX PEARL.

Next, the Exchange proposes to amend Exchange Rule 100 to clarify the definition for the term ''MIAX.'' Exchange Rule 100 currently defines MIAX as follows: ''The term 'MIAX' means the Miami International Securities Exchange, LLC.'' The Exchange proposes to insert the phrase ''or the Exchange'' following the period in the current definition for the term MIAX in Exchange Rule 100 to clarify and align the rule text with the definition for the term the ''Exchange'' in Exchange Rule 100. Exchange Rule 100 currently defines Exchange as follows: ''The term 'Exchange' means the national securities exchange known as Miami International Securities Exchange or MIAX.'' The Exchange's proposal to clarify the definition for the term ''MIAX'' would be as follows: ''The term 'MIAX' means the Miami International Securities Exchange, LLC, or the Exchange.'' The proposal is nearly identical to rule text in MIAX Emerald Rule 100.[4] The Exchange believes that its affiliate, MIAX PEARL, would also make a nearly identical change to MIAX PEARL Rule 100.[5]

The Exchange also proposes to amend Exchange Rule 100 to make minor non-substantive edit to the definition for ''Exchange'' in order to provide consistency and clarity within the rule text. Currently, Exchange Rule 100 defines Exchange as follows: ''The term 'Exchange' means the national securities exchange known as Miami International Securities Exchange or MIAX.'' The definition for Exchange in MIAX Rule 100 should include a comma and the abbreviation ''LLC'' following the whole name for MIAX. Accordingly, the Exchange proposes to amend the definition for Exchange as follows: ''The term 'Exchange' means the national securities exchange known as Miami International Securities Exchange, LLC or MIAX.''

Next, the Exchange proposes to amend Exchange Rule 200, Trading Permits, to conform to MIAX Emerald Rule 200 by adopting language to differentiate the MIAX trading permit application process for holders of MIAX Emerald or MIAX PEARL trading permits and applicants not holding MIAX Emerald or MIAX PEARL trading permits. Currently, Exchange Rule 200(c), Application Process, describes the application process for a person or entity seeking to hold a MIAX Trading Permit as follows:

> All persons or entities seeking to hold a Trading Permit (''Applicant'') must submit an application to the Exchange in accordance with such procedures as shall be established by the Exchange via Regulatory Circular including submission deadlines and payment of any applicable application fees. In addition, the following shall apply:[6]

The current application process under Exchange Rule 200 for a MIAX trading permit was established prior to the Exchange's affiliates, MIAX Emerald and MIAX PEARL, commencing operations.

The Exchange proposes to adopt the waive-in application process for a MIAX trading permit that is currently in place on MIAX Emerald. MIAX Emerald Rule 200 provides that a holder of a MIAX or MIAX PEARL trading permit in good standing is eligible to receive one MIAX Emerald Trading Permit in the same Membership category to trade on MIAX

[3] *See* Exchange Rule 100.

[4] *See* MIAX Emerald Rule 100.

[5] *See* SR–PEARL–2019–16.

[6] *See* Exchange Rule 200.

Emerald.[7] Member [8] applicants of MIAX and MIAX PEARL are not required to submit a full application for membership on MIAX Emerald, but rather only need to complete selected MIAX Emerald forms concerning their election to trade on MIAX Emerald, consent to MIAX Emerald's jurisdiction, and other operational matters.[9] This waive-in application process is similar to arrangements in place at other exchanges.[10]

MIAX proposes to adopt the waive-in application process to conform to MIAX Emerald by adopting a new paragraph in Exchange Rule 200, that will be numbered (c)(1). Currently, sub-paragraph (c)(1) under Exchange Rule 200 provides as follows:

Each Applicant shall promptly update the application materials submitted to the Exchange if any of the information provided in these materials becomes inaccurate or incomplete after the date of submission of the application to the Exchange and prior to any approval of the application.

Pursuant to this proposal, the Exchange proposes to adopt the following sub-paragraph, which will be numbered as (c)(1) under Exchange Rule 200:

Holders of MIAX Emerald or MIAX PEARL Trading Permits. A holder of a MIAX Emerald or MIAX PEARL trading permit in good standing is eligible to receive one MIAX Trading Permit in the same Membership category to trade on MIAX (*i.e.,* a MIAX Emerald Primary Lead Market Maker Member is eligible to become a MIAX Primary Lead Market Maker Member, a MIAX Emerald Lead Market Maker Member is eligible to become a MIAX Lead Market Maker Member, a MIAX Emerald Registered Market Maker Member is eligible to become a MIAX Registered Market Maker Member, a MIAX Emerald Electronic Exchange Member is eligible to become a MIAX Electronic Exchange Member, a MIAX PEARL Market Maker is eligible to become a MIAX Registered Market Maker and a MIAX PEARL Electronic Exchange Member is eligible to become a MIAX Electronic Exchange Member). A holder of a MIAX Emerald or MIAX PEARL trading permit who wishes to apply to the Exchange is not required to complete and submit an Exchange application. Instead only Exchange forms concerning election to trade on the Exchange, submitting to Exchange jurisdiction, and operational matters need be completed and tendered.

The Exchange proposes to amend the rule text of Exchange Rule 200 to adopt a new sub-paragraph in Exchange Rule 200, that would be numbered (c)(2) for trading permit applicants not holding a MIAX Emerald or MIAX PEARL trading permit already. Currently, Exchange Rule 200(c)(2) provides as follows:

The Exchange shall investigate each Applicant applying to be a Member (with the exception of any Applicant that was a Member within 9 months prior to the date of receipt of that Applicant's application by the Exchange, and any Applicant that was investigated by the Exchange within 9 months prior to the date of receipt of that Applicant's application by the Exchange). The Exchange may investigate any Applicant that is not required to be investigated pursuant to this paragraph. In connection with an investigation conducted pursuant to this paragraph, the Exchange may (i) conduct a fingerprint based criminal records check of the Applicant and its Responsible Person; or (ii) utilize the results of a fingerprint based criminal records check of the Applicant and its Responsible Person conducted by the Exchange or another self-regulatory organization within the prior year.

Pursuant to this proposal, the Exchange proposes to adopt the following sub-paragraph, which will be numbered as (c)(2) under Exchange Rule 200:

Applicants Not Holding MIAX Emerald or MIAX PEARL Trading Permits. An applicant not holding a MIAX Emerald or MIAX PEARL trading permit seeking to hold a MIAX Trading Permit (''Applicant'') must submit an application to the Exchange in accordance with such procedures as shall be established by the Exchange. In addition, the following shall apply:

The Exchange also proposes to make corrective changes to the numerical and alphabetical list item identifiers to account for the Exchange's proposal to adopt new rule text for sub-paragraphs (c)(1) and (c)(2), as described above, which replaced the current sub-paragraphs identified as (c)(1) and (c)(2). The Exchange proposes that the sub-paragraphs in Exchange Rule 200(c)(1) through (c)(7), as well as paragraphs (d) through (f), would be changed to conform to the hierarchical heading scheme used throughout the Exchange's rulebook as well as to account for the new language adopted in new sub-paragraphs (c)(1) and (c)(2). Accordingly, under Exchange Rule 200, the text in paragraph (c) would be deleted, leaving only the heading ''Application Process'' in bold font as a heading for the entire section identified as paragraph (c). The Exchange proposes to adopt new sub-paragraph (c)(1) and (c)(2), as described above. Current sub-paragraph (c)(1) through (c)(7) will be renumbered as (c)(2)(i) through (c)(2)(vi), and current sub-paragraph (c)(7) will become its own paragraph identified as paragraph (d); current paragraphs (d) through (f) will be renumbered as (e) through (g); current sub-paragraphs (c)(2)(i) through (c)(2)(ii) will be renumbered as (c)(2)(ii)(A) through (c)(2)(ii)(B); and the reference in current sub-paragraph (c)(3) to ''paragraph (2)'' will be corrected such that sub-paragraph (c)(3) will be renumbered as sub-paragraph (c)(2)(iii) and will reference ''paragraph (ii).''

Next, the Exchange proposes to amend Exchange Rule 402, Criteria for Underlying Securities, to make minor corrective changes to the numerical and alphabetical list item identifiers to properly conform to the hierarchical heading scheme used throughout the Exchange's rulebook. Currently, Exchange Rule 402(i) provides as follows:

Securities deemed appropriate for options trading shall include shares or other securities (''Exchange-Traded Fund Shares'') that are traded on a national securities exchange and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS, and that:

The Exchange proposes that the sub-paragraphs that follow would be changed to conform to the hierarchical heading scheme used throughout the Exchange's rulebook. Accordingly, under Exchange Rule 402(i), sub-paragraphs (A) through (E) will be renumbered as (1) through (5); sub-paragraphs (E)(1) through (E)(2) will be renumbered as (5)(i) through (5)(ii); sub-paragraphs (E)(1)(i) through (E)(1)(iii) will be renumbered as (5)(i)(A) through (5)(i)(C); sub-paragraph (E)(2) will be renumbered as (5)(ii); sub-paragraphs (E)(2)(i) through (E)(2)(ii) will be renumbered as (5)(ii)(A) through (5)(ii)(B); and sub-paragraphs (E)(2)(ii)(A) through (E)(2)(ii)(D) will be renumbered as (5)(ii)(B)(1) through (5)(ii)(B)(4).

Next, the Exchange proposes to amend Exchange Rule 403, Withdrawal of Approval of Underlying Securities, to conform references to Exchange Rule 402(i) sub-paragraphs that are in Exchange Rule 403. Exchange Rule 403(g)(1) and (g)(2) currently reference Exchange Rule 402(i)(E)(1)(i) and 402(i)(E)(1)(ii). The Exchange proposes to amend these reference to conform to the other proposed changes to Exchange Rule 402 and the proposed changes would be references to Exchange Rule 402(i)(5)(i)(A) and 402(i)(5)(i)(B).

[7] *See* MIAX Emerald Rule 100.

[8] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[9] *See* MIAX Emerald Rule 100.

[10] *See, e.g.,* Nasdaq MRX, LLC Rule 302(a) (containing similar expedited waive-in membership process for members of the Nasdaq ISE, LLC and Nasdaq GEMX, LLC); MIAX PEARL Rule 200(c)(1) (containing similar expedited waive-in membership process for members of MIAX); and Cboe C2 Exchange, Inc. Rule 3.1(c)(1) (containing similar expedited waive-in membership process for members of Cboe).

Next, the Exchange proposes to amend Exchange Rule 519, MIAX Order Monitor, to amend sub-paragraph (a)(3)(i) to delete Roman numeral (i) in that sub-paragraph that immediately precedes the sentence ''The following examples illustrate those situations where lower priced limit orders are rejected because they cross the NBBO by at least 50%:'' The Exchange proposes to separate sub-paragraph (a)(3)(i) into sub-paragraphs (a)(3)(i)(A) and (a)(3)(i)(B). The Exchange also proposes to amend sub-paragraph (a)(3)(i) to separate Roman numeral (ii) into its own sub-paragraph that will become sub-paragraph (a)(3)(ii), with sub-paragraphs (a)(3)(ii)(A) and (a)(3)(ii)(B) separated into their own sub-paragraphs as well. The Exchange also proposes to make a minor corrective change to the current Roman numeral identifier for sub-paragraph (a)(3)(ii) that is directly below sub-paragraph (a)(3)(i) to properly conform to the hierarchical heading scheme used throughout the Exchange's rulebook following the other proposed changes to Rule 519, sub-paragraph (a)(3). Accordingly, the current sub-paragraph (a)(3)(ii) will be renumbered as sub-paragraph (a)(3)(iii).

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes correct errors in the hierarchical heading scheme to provide uniformity in the Exchange's rulebook. The Exchange notes that the proposed changes to Exchange Rule 100, Rule 402, Rule 403 and Rule 519 do not alter the application of each rule. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. In particular, the Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

The Exchange believes the proposed changes to Exchange Rule 200 promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because the proposed changes will align MIAX Rule 200 with MIAX Emerald Rule 200 regarding trading permits. The Exchange believes this consistency across exchanges would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the application process for trading permits. The Exchange also believes that although MIAX Emerald rules may, in certain instances, intentionally differ from MIAX rules, the proposed changes will promote uniformity with MIAX with respect to rules that are intended to be identical. The Exchange believes that this proposal will reduce the potential for confusion by its Members that are also Members of MIAX Emerald if the only differences between MIAX Emerald rules and MIAX rules are those are specific to each exchange.

The Exchange also believes the proposed changes to Exchange Rule 200 promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because MIAX and its affiliates, MIAX Emerald and MIAX PEARL, have substantially the same Members, and by adopting the waive-in application process for those Members already holding trading permits on MIAX Emerald and/or MIAX PEARL, promotes the more effective utilization of time and resources of the Exchange. Furthermore, because MIAX Emerald and MIAX PEARL trading permit holders have already been vetted, the Exchange's proposal to adopt the waive-in application process in Exchange Rule 200 aligns the trading permit application process with that of the Exchange's affiliates, MIAX Emerald and MIAX PEARL, preventing unnecessary regulatory burdens and promoting the efficient administration of the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to add additional clarity to existing rules and to remedy minor non-substantive issues in the text of various rules identified in this proposal.

The Exchange does not believe that the proposed rule changes to Exchange Rule 200 will impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act because MIAX and its affiliates, MIAX Emerald and MIAX PEARL, have substantially the same Members, and by adopting the waive-in application process for those Members already holding trading permits on MIAX Emerald and/or MIAX PEARL promotes the more effective utilization of time and resources of the Exchange. Furthermore, because MIAX PEARL and MIAX Emerald trading permit holders have already been vetted, the Exchange's proposal to amend the waive-in application process in Exchange Rule 200 aligns the trading permit application process with that of the Exchange's affiliate, MIAX Emerald, preventing unnecessary regulatory burdens and promoting the efficient administration of the Exchange's rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) [14] thereunder.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2019–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2019–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2019–21, and should be submitted on or before May 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09508 Filed 5–8–19; 8:45 am]

BILLING CODE 8011–01–P

give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85771; File No. SR–PEARL–2019–16]

Self-Regulatory Organizations; Miami PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 100, Definitions, Rule 200, Trading Permits, Chapter III, Business Conduct, Rule 506, Collection and Dissemination of Quotations, Chapter VII, Exercises and Deliveries, Chapter VIII, Records, Reports and Audits, Chapter IX, Summary Suspension, Chapter XI, Hearings, Review and Arbitration, Chapter XIII, Doing Business With The Public, Chapter XIV, Order Protection, Locked and Crossed Markets, Chapter XV, Margins, Chapter XVI, Net Capital Requirements, Chapter XVII, Consolidated Audit Trail Compliance Rule and Chapter XVIII, Index Options

May 3, 2019.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2019, Miami PEARL, LLC (''MIAX PEARL'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to make a number of minor, non-substantive edits to Exchange Rule 100, Definitions, Rule 200, Trading Permits, Chapter III, Business Conduct, Rule 506, Collection and Dissemination of Quotations, Chapter VII, Exercises and Deliveries, Chapter VIII, Records, Reports and Audits, Chapter IX, Summary Suspension, Chapter XI, Hearings, Review and Arbitration, Chapter XIII, Doing Business With The Public, Chapter XIV, Order Protection, Locked and Crossed Markets, Chapter XV, Margins, Chapter XVI, Net Capital Requirements, Chapter XVII, Consolidated Audit Trail Compliance Rule and Chapter XVIII, Index Options for purposes of clarification and uniformity.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 100, Definitions, to make minor non-substantive edits to harmonize the rule text to that of the Exchange's affiliate, MIAX Emerald, LLC (''MIAX Emerald''). Currently, Exchange Rule 100 does not include a definition for the Exchange's affiliate, MIAX Emerald. In order to ensure conformity, the Exchange proposes to amend Exchange Rule 100 to adopt the definition for MIAX Emerald that is nearly identical to rule text found in

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

MIAX Emerald Rule 100. Accordingly, MIAX PEARL proposes to adopt the following definition for MIAX Emerald to be included in Exchange Rule 100: ''The term 'MIAX Emerald' means MIAX Emerald, LLC.'' The Exchange believes that adopting the definition of the Exchange's affiliate, MIAX Emerald, in Exchange Rule 100 creates consistency between MIAX PEARL and MIAX Emerald.

The Exchange also proposes to amend Exchange Rule 100 to make a minor non-substantive edit by deleting the term ''PEARL'' and its definition for purposes of clarification and uniformity throughout the Exchange's rulebook as well as to conform the term ''MIAX PEARL'' to how it is defined by the Exchange's affiliates, Miami International Securities Exchange, LLC (''MIAX'') and MIAX Emerald. Currently, the Exchange's rulebook makes references to ''MIAX PEARL'' as well as ''PEARL.'' All references to MIAX PEARL in the rule text of the Exchange, as well as the rule text of MIAX and MIAX Emerald, should be to ''MIAX PEARL,'' and not the single term ''PEARL.'' Accordingly, the Exchange proposes to delete the singular term ''PEARL'' and its definition in Exchange Rule 100.

The Exchange also proposes to amend the definitions for ''Exchange'' and ''MIAX PEARL'' in Exchange Rule 100 in order to delete the part of the definition for ''Exchange'' and ''MIAX PEARL'' which currently provide that the singular term ''PEARL'' is a reference to MIAX PEARL. Exchange Rule 100 currently defines Exchange as follows: ''The term 'Exchange' means the national securities exchange known as MIAX PEARL, LLC, MIAX PEARL or PEARL.'' Pursuant to this proposal, the definition for Exchange would be as follows: ''The term 'Exchange' means the national securities exchange known as MIAX PEARL, LLC, or MIAX PEARL.'' Exchange Rule 100 currently defines MIAX PEARL as follows: ''The term 'MIAX PEARL' means the MIAX PEARL, LLC, the Exchange or PEARL.'' Pursuant to this proposal, the definition for MIAX PEARL would be as follows: ''The term 'MIAX PEARL' means the MIAX PEARL, LLC, or the Exchange.''

Next, the Exchange proposes to amend several rules and chapters to make minor non-substantive edits to harmonize the rule text to that of the Exchange's affiliates, MIAX and MIAX Emerald. Presently, MIAX is referred to in the Exchange's rulebook as ''MIAX Options Exchange.'' The Exchange proposes to delete the words ''Options Exchange'' from all references to MIAX throughout the Exchange's rulebook. Exchange Rule 100 currently defines MIAX as follows: ''The term 'MIAX Options Exchange' means Miami International Securities Exchange, LLC.'' Pursuant to this proposal, the definition for MIAX would be as follows: ''The term 'MIAX' means Miami International Securities Exchange, LLC.'' The Exchange also proposes that all other references throughout the Exchange's rulebook to ''MIAX Options Exchange'' would be amended to delete the words ''Options Exchange,'' such that all references will be to the singular word ''MIAX.'' The proposed amendments would be to ''MIAX Options Exchange'' references in Rule 200, Trading Permits, Chapter III, Business Conduct, Chapter VII, Exercises and Deliveries, Chapter VIII, Records, Reports and Audits, Chapter IX, Summary Suspension, Chapter XI, Hearings, Review and Arbitration, Chapter XIII, Doing Business With The Public, Chapter XIV, Order Protection, Locked and Crossed Markets, Chapter XV, Margins, Chapter XVI, Net Capital Requirements, Chapter XVII, Consolidated Audit Trail Compliance Rule and Chapter XVIII, Index Options. This proposal is for purposes of clarification and uniformity throughout the Exchange's rulebook as well as to conform the term ''MIAX'' to how it is defined by the Exchange's affiliates, MIAX and MIAX Emerald.[3]

Next, the Exchange proposes to amend Exchange Rule 200, Trading Permits, to adopt similar rule text for the waive-in application process to obtain a trading permit for MIAX PEARL that is currently in place on MIAX Emerald for applicants holding a MIAX or MIAX Emerald trading permit. MIAX Emerald Rule 200 provides that a holder of a MIAX or MIAX PEARL trading permit in good standing is eligible to receive one MIAX Emerald trading permit in the same Membership category to trade on MIAX Emerald.[4] Member [5] applicants of MIAX and MIAX PEARL are not required to submit a full application for membership on MIAX Emerald, but rather only need to complete selected MIAX Emerald forms concerning their election to trade on MIAX Emerald, consent to MIAX Emerald's jurisdiction, and other operational matters.[6] This waive-in application process is similar to arrangements in place at other exchanges.[7] The Exchange believes that its affiliate, MIAX, would also make a nearly identical change to MIAX Rule 200.[8]

MIAX PEARL Rule 200(c)(1) currently has in place the waive-in application process for holders of MIAX trading permits who want to apply for a trading permit on MIAX PEARL. Exchange Rule 200(c)(1) currently provides as follows:

Holders of MIAX Options Exchange trading permits. A holder of a MIAX Options Exchange trading permit in good standing is eligible to receive one MIAX PEARL Trading Permit. A holder of a MIAX Options Exchange trading permit who wishes to apply to the Exchange is not required to complete and submit an Exchange application. Instead only Exchange forms concerning election to trade on the Exchange, submitting to Exchange jurisdiction, and operational matters need be completed and tendered.

The Exchange proposes to amend Exchange Rule 200(c)(1) to provide that holders of MIAX Emerald trading permits may also utilize the waive-in application process to obtain a MIAX PEARL trading permit as MIAX Emerald is an affiliate of the Exchange. This proposal also includes adopting explanatory rule text in parenthesis similar to rule text adopted by MIAX Emerald. Accordingly, the Exchange proposes to amend Exchange Rule 200(c)(1) to provide as follows:

Holders of MIAX or MIAX Emerald Trading Permits. A holder of a MIAX or MIAX Emerald trading permit in good standing is eligible to receive one MIAX PEARL Trading Permit in the same Membership category to trade on MIAX PEARL (*i.e.,* a MIAX Registered Market Maker or a MIAX Emerald Registered Market Maker is eligible to become a MIAX PEARL Market Maker and a MIAX Electronic Exchange Member or a MIAX Emerald Electronic Exchange Member is eligible to become a MIAX PEARL Electronic Exchange Member). A holder of a MIAX or MIAX Emerald trading permit who wishes to apply to the Exchange is not required to complete and submit an Exchange application. Instead only Exchange forms concerning election to trade on the Exchange, submitting to Exchange jurisdiction, and operational matters need be completed and tendered.

The Exchange also proposes to amend the rule text of Exchange Rule 200(c)(2) for applicants of a MIAX PEARL trading

[3] *See* MIAX Rule 100 and MIAX Emerald Rule 100.

[4] *See* MIAX Emerald Rule 100.

[5] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[6] *See* MIAX Emerald Rule 100.

[7] *See, e.g.,* Nasdaq MRX, LLC Rule 302(a) (containing similar expedited waive-in membership process for members of the Nasdaq ISE, LLC and Nasdaq GEMX, LLC); MIAX Emerald Rule 200(c) (containing similar expedited waive-in membership process for members of MIAX); and Cboe C2 Exchange, Inc. Rule 3.1(c)(1) (containing similar expedited waive-in membership process for members of Cboe).

[8] *See* SR–MIAX–2019–21.

permit who do not already hold a MIAX or MIAX Emerald trading permit. Exchange Rule 200(c)(2) currently provides as follows:

Applicants Not Holding MIAX Options Exchange trading permits. An applicant not holding a MIAX Options Exchange trading permit seeking to hold a MIAX PEARL Trading Permit (''Applicant'') must submit an application to the Exchange in accordance with such procedures as shall be established by the Exchange. In addition, the following shall apply:

The Exchange proposes to amend Exchange Rule 200(c)(2) to include a provision for applicants of a MIAX PEARL trading permit who do not already hold a MIAX Emerald trading permit to conform to the rule text of MIAX Emerald. Accordingly, the Exchange proposes to amend Exchange Rule 200(c)(2) as follows:

Applicants Not Holding MIAX Trading Permits. An applicant not holding a MIAX or MIAX Emerald trading permit seeking to hold a MIAX PEARL Trading Permit (''Applicant'') must submit an application to the Exchange in accordance with such procedures as shall be established by the Exchange. In addition, the following shall apply:

Next, the Exchange proposes to amend the rule text of Exchange Rule 200(d) to make a minor non-substantive corrective edit. Exchange Rule 200(d) currently provides as follows:

Every Trading Permit holder must have and maintain membership in another registered options exchange other than the MIAX Options Exchange (that is not registered solely under Section 6(g) of the Exchange Act). If such other registered options exchange has not been designated by the Commission, pursuant to Rule 17d–1 under the Exchange Act, to examine Members for compliance with financial responsibility rules, then such Applicant must have and maintain a membership in FINRA.

The Exchange proposes to amend Exchange Rule 200(d) to adopt rule text to provide that every trading permit holder of MIAX PEARL must have and maintain membership in another options exchange other than MIAX or MIAX Emerald to conform to the rule text of the Exchange's affiliate, MIAX Emerald. Accordingly, the Exchange proposes to amend Exchange Rule 200(d) as follows:

Membership in Another Registered Options Exchange. Every Trading Permit holder must have and maintain membership in another registered options exchange other than the MIAX or MIAX Emerald (that is not registered solely under Section 6(g) of the Exchange Act). If such other registered options exchange has not been designated by the Commission, pursuant to Rule 17d–1 under the Exchange Act, to examine Members for compliance with financial responsibility rules, then such Applicant must have and maintain a membership in FINRA.

Finally, MIAX PEARL proposes to amend Exchange Rule 506, Collection and Dissemination of Quotations, to make minor corrective changes to the numerical and alphabetical list item identifiers to properly conform to the hierarchical heading scheme used throughout the Exchange's rulebook. Accordingly, Exchange Rule 506 sub-paragraphs (d)(i) through (d)(ii) will be renumbered as (d)(1) through (d)(2).

2. Statutory Basis

MIAX PEARL believes that its proposed rule change is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes make a number of minor, non-substantive corrective changes for purposes of clarification and uniformity.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes correct errors in the hierarchical heading scheme to provide uniformity in the Exchange's rulebook. The Exchange notes that the proposed changes to Rule 100, Chapter III, Rule 506, Chapter VII, Chapter VIII, Chapter IX, Chapter XI, Chapter XIII, Chapter XIV, Chapter XV, Chapter XVI, Chapter XVII and Chapter XVIII do not alter the application of each rule. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. In particular, the Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

The Exchange believes the proposed changes to Exchange Rule 200 promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because the proposed changes will align MIAX PEARL Rule 200 with MIAX Emerald Rule 200 regarding trading permits. The Exchange believes this consistency across exchanges would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the application process for trading permits. The Exchange also believes that although MIAX Emerald rules may, in certain instances, intentionally differ from MIAX PEARL rules, the proposed changes will promote uniformity with MIAX PEARL with respect to rules that are intended to be identical. The Exchange believes that this proposal will reduce the potential for confusion by its Members that are also Members of MIAX Emerald if the only differences between MIAX Emerald rules and MIAX PEARL rules are those that are specific to each exchange.

The Exchange also believes the proposed changes to Exchange Rule 200 promote just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because MIAX PEARL and its affiliates, MIAX and MIAX Emerald, have substantially the same Members, and by adopting the waive-in application process for those Members already holding trading permits on MIAX and/or MIAX Emerald, promotes the more effective utilization of time and resources of the Exchange. Furthermore, because MIAX and MIAX Emerald trading permit holders have already been vetted, the Exchange's proposal to amend the waive-in application process in Exchange Rule 200 aligns the trading permit application process with that of the Exchange's affiliate, MIAX Emerald, preventing unnecessary regulatory burdens and promoting the efficient administration of the Exchange's rules.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to add additional clarity to existing rules and to remedy minor non-substantive issues in the text of various rules identified in this proposal.

The Exchange does not believe that the proposed rule changes to Exchange Rule 200 will impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act because MIAX PEARL and its affiliates, MIAX and MIAX Emerald, have substantially the same Members, and by adopting the waive-in application process for those Members already holding trading permits on MIAX and/or MIAX Emerald promotes the more effective utilization of time and resources of the Exchange. Furthermore, because MIAX and MIAX Emerald trading permit holders have already been vetted, the Exchange's proposal to amend the waive-in application process in Exchange Rule 200 aligns the trading permit application process with that of the Exchange's affiliate, MIAX Emerald, preventing unnecessary regulatory burdens and promoting the efficient administration of the Exchange's rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2019–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2019–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2019–16, and should be submitted on or before May 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09507 Filed 5–8–19; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85772; File No. SR–NYSE–2019–22]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 7.31 To Add a New Order Type, Capital Commitment Order, and Make Related Changes to Rules 7.16, 7.34, 7.36, and 7.37

May 3, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 18, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On May 1, 2019, the Exchange filed Amendment No. 1 to the proposal. 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 to amend Rule 7.31 (Orders and Modifiers) to add a new order type, Capital Commitment Order, and make related changes to Rules 7.16, 7.34, 7.36, and 7.37. The

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Exchange proposes to further amend Rule 7.31 to specify that Market Orders and the Last Sale Peg Modifier are not available to Designated Market Makers. This Amendment No. 1 supersedes the original filing in its entirety. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.31 (Orders and Modifiers) to add a new order type, Capital Commitment Order, and make related changes to Rules 7.16, 7.34, 7.36, and 7.37. The Exchange proposes to further amend Rule 7.31 to specify that Market Orders and the Last Sale Peg Modifier would not be available to Designated Market Makers (''DMMs''). This Amendment No. 1 supersedes the original filing in its entirety.

Currently, the Exchange trades UTP Securities on its Pillar trading platform, subject to Pillar Platform Rules 1P–13P.[4] In the next phase of Pillar, the Exchange proposes to transition trading of Exchange-listed securities to the Pillar trading platform, which means that DMMs would be trading on Pillar in their assigned securities.[5] Once transitioned to Pillar, such securities will also be subject to the Pillar Platform Rules 1P–13P. The Exchange has separately filed a proposed rule change to support the transition of Exchange-listed securities to the Pillar Trading Platform, including adding the DMM as a Participant under the Pillar Platform Rules.[6]

With this proposed rule change, the Exchange proposes an additional order type that would be available to DMMs when Exchange-listed securities transition to Pillar.

Proposed Capital Commitment Order

The proposed new order type, Capital Commitment Order, or ''CCO,'' is based in part on the current Capital Commitment Schedule[7] (''CCS''), which is currently available only to DMMs trading in Exchange-listed securities. The Exchange proposes to make related changes to Rules 7.16 (Short Sales), 7.34 (Trading Sessions), 7.36 (Order Ranking and Display), and 7.37 (Order Execution and Routing).

The proposed CCO would be available to DMMs when the Exchange transitions Exchange-listed securities to Pillar. Like CCS interest, the CCO would enable DMMs to provide additional, non-displayed liquidity at specific price points in their assigned securities on Pillar.

The operation of the existing CCS is set forth in Rules 1000(d)–1000(g). Under Rule 1000(d), a DMM may, for each security in which it is registered, place within Exchange systems a pool of non-displayed liquidity—the CCS—to be available to fill or partially fill incoming orders in automatic executions.[8] Rule 1000(d) also provides that CCS interest is used to trade at the Exchange BBO, at prices better than the Exchange BBO, and at prices outside the Exchange BBO. CCS interest must be for a minimum of one round lot of a security and entered at price points that are at, inside, or away from the Exchange BBO.

Rule 1000(e) governs executions at and outside the Exchange BBO and specifies how CCS interest would interact with such executions. Rule 1000(e)(iii) specifies how CCS would trade with an incoming order that sweeps multiple price points outside the Exchange BBO, and specifically, how CCS trades at a single price point to provide price improvement for completing the incoming order. Rule 1000(f) specifies how CCS interest may provide price improvement inside the Exchange BBO with interest arriving in the Exchange market. Under Rule 1000(g), CCS interest may trade with non-marketable[9] interest if the non-marketable interest betters the Exchange BBO (or cancels in the case of an arriving IOC order) and if the incoming interest may be executed in full by all available trading interest on the Exchange, including CCS interest and d-quotes.

On Pillar, the Exchange proposes to offer DMMs functionality similar to the CCS in the form of CCOs. However, the Exchange proposes to simplify and streamline CCO functionality on Pillar as compared to how the CCS functions. Among other things, unlike CCS, the proposed CCO would be an order type that includes a limit price, rather than a schedule of non-displayed liquidity, and would be eligible to execute only at its limit price on an order-by-order basis. Multiple CCOs would, therefore, not be aggregated at the same price or multiple prices like CCS interest is today pursuant to Rules 1000(f) and (g). While the purpose of the CCO is the same as CCS—a tool for DMMs to provide additional, non-displayed liquidity in their assigned securities—the operation of CCOs would be based in part on how Tracking Orders function on the Exchange's affiliated exchanges that currently operate on Pillar, NYSE Arca, Inc. (''NYSE Arca'') and NYSE National, Inc. (''NYSE National'').[10]

The proposed CCO would be described under paragraph (d)(5) of Rule 7.31 for Exchange-listed securities trading on Pillar. Proposed Rule 7.31(d)(5) would set forth the general requirements for CCOs and would provide that a CCO is a Limit Order that is not displayed, does not route, must be entered in a minimum of one round lot, and must be designated Day. This proposed rule text is based in part on how the CCS currently functions, but unlike CCS, the proposed CCO would be a Limit Order rather than a schedule of

[4] ''UTP Security'' is defined as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* Rule 1.1.

[5] The Exchange has announced that, subject to rule approvals, the Exchange will begin transitioning Exchange-listed securities to Pillar on August 5, 2019, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf.* The Exchange will publish by separate Trader Update a complete symbol migration schedule.

[6] *See* Securities Exchange Act Release No. 85176 (February 22, 2019), 84 FR 6868 (February 28, 2019) (Notice of Filing) (SR–NYSE–2019–05) (''NYSE Tape A Pillar Filing'').

[7] *See* Rule 1000(d)–(g). *See also* Securities Exchange Act Release Nos. 75578 (July 31, 2015), 80 FR 47008 (August 6, 2015) (SR–NYSE–2015–26) (Order Granting Approval of a Proposed Rule Change Making Permanent the Rules of the NYSE New Market Model Pilot and the NYSE Supplemental Liquidity Providers Pilot) (''Approval Order'').

[8] CCS interest supplements displayed and non-displayed interest of the DMM in Exchange systems.

[9] Under Rule 1000(g)(1), ''non-marketable'' means trading interest (*i.e.,* displayable and non-displayable) that is at a price higher than the current Exchange bid (but below the current Exchange offer) or lower than the current Exchange offer (but above the current Exchange bid), including better bids and offers on other market centers. *See* NYSE Rule 1000(g)(1).

[10] *See* NYSE Arca Rule 7.31–E(d)(4) and NYSE National Rule 7.31(d)(4).

non-displayed liquidity. This proposed rule text uses Pillar terminology and is also based in part on the first half of the first sentence of NYSE Arca Rule 7.31–E(d)(4) and NYSE National Rule 7.31(d)(4) relating to Tracking Orders.

Proposed Rule 7.31(d)(5) would also provide that a CCO would be ranked Priority 5—CCOs. The Exchange would make a related amendment to Rule 7.36(e) to add this additional priority category. Proposed Rule 7.36(e)(5) would provide that Priority 5—CCOs would have fifth priority after Priority 4—Yielding Orders.[11] The Exchange believes that this proposed priority category is consistent with current CCS functionality [12] because CCOs would be ranked behind all other displayed and non-displayed orders. This proposed rule change is also based in part on how Tracking Orders function on NYSE Arca and NYSE National, as Tracking Orders similarly have a priority ranking behind all other displayed and non-displayed orders at a price.[13]

Proposed Rule 7.31(d)(5) would further provide that CCOs would be available only to DMMs in their assigned securities, eligible to be traded in the Core Trading Session [14] only, and not eligible to participate in any Auctions. This proposed rule text is based on current rules that the CCS is available only to DMMs. The requirement that CCOs would be eligible to trade in the Core Trading Session only is consistent with current CCS functionality for Exchange-listed securities, which trade during regular trading hours only,[15] and proposed functionality that Exchange-listed securities would not be eligible to participate in the Early Trading Session on Pillar.[16] The Exchange also proposes to amend Rule 7.34(c)(1)(A) (Trading Sessions) to specify that CCOs are not eligible to participate in the Early Trading Session and that CCOs entered during the Early Trading Session would be rejected. The proposal that CCOs would not be eligible to participate in any Auctions is also consistent with current CCS functionality.

Proposed Rule 7.31(d)(5)(A) would describe how CCOs function on arrival and would provide that a CCO to buy (sell) does not trade on arrival and is triggered to trade by an Aggressing Order [17] to sell (buy) that (i) has exhausted all other interest eligible to trade at the Exchange at the CCO's working price, and (ii) has a remaining quantity equal to or less than the size of a resting CCO (*i.e.,* completely fills an Aggressing Order). This proposed rule text is based in part on how Tracking Orders function, as described in NYSE Arca Rule 7.31–E(d)(4)(A) and NYSE National Rule 7.31(d)(4)(A). This proposed functionality is also similar to how CCS operates, as it is a schedule of resting non-displayed liquidity, and does not trade with resting interest.

Proposed Rule 7.31(d)(5)(A)(1) would provide that a CCO to buy (sell) may be designated to trade with an Aggressing Order to sell (buy) that has a remaining quantity greater than the size of the resting CCO (*i.e.,* partially fills an Aggressing Order). This is similar to the operation of CCS interest, which the DMM can similarly designate for partial execution.[18] The Exchange believes that this optional functionality should continue to be available to DMMs as it would increase execution opportunities for incoming orders.

Proposed Rule 7.31(d)(5)(A)(2) would provide that an arriving CCO to buy (sell) with a limit price in the discretionary price range, as defined in paragraph (d)(4)(C)(i) of Rule 7.31, can trigger a resting D Order to sell (buy) to exercise discretion. This would be new functionality that would provide an execution opportunity for a resting D Order. Specifically, pursuant to Rule 7.31(d)(4)(C)(i), a D Order to buy (sell) would be triggered to exercise discretion if the price of an Aggressing Order to sell (buy) is above (below) the PBB (PBO) and at or below (above) the Midpoint Price (defined as the ''discretionary price range'').

Even though a CCO is not, by its terms, an Aggressing Order, the Exchange believes that a CCO should be eligible to provide liquidity if its limit price is in the discretionary price range of a resting D Order. A CCO that would trigger a resting D Order to exercise discretion will not receive execution priority over any resting orders that are on the same side as the CCO and are eligible to trade with the D Order because any such orders would have already traded with the D Order. Specifically, pursuant to Rule 7.31(d)(4)(C)(1), a D Order to buy (sell) will be triggered to exercise discretion if the price of an Aggressing Order to sell (buy) is above (below) the PBB (PBO) and at or below (above) the Midpoint Price, which is defined as the discretionary price range. This includes resting contra-side orders that become an Aggressing Order, *e.g.,* an MPL that receives a new working price because of an update to the PBBO, because if such orders are within the discretionary price range of a D Order, the D Order would be triggered to exercise discretion by such Aggressing Order. Accordingly, if a CCO order arrives and is within the discretionary price range of a D Order, any other same-side resting orders eligible to trade with such D Order would have already executed. Because a CCO does not meet the terms of an Aggressing Order and therefore would not be addressed by Rule 7.31(d)(4)(C)(i), the Exchange proposes to specify this behavior separately in proposed Rule 7.31(d)(5)(A)(2). This would be new functionality on Pillar that the Exchange believes is consistent with the purpose of a CCO, which is to provide additional liquidity that would not trade ahead of other orders eligible to trade at that price.

Proposed Rule 7.31(d)(5)(B) would provide that the working price of the CCO would be equal its limit price and sets forth when a COO would not be eligible to trade. Proposed Rule 7.31(d)(5)(B)(1) would provide that a buy (sell) CCO would not be eligible to trade if its limit price is equal to or higher (lower) than the PBO (PBB), NBO (NBB), Upper (Lower) Price Band, or the working price of any resting sell (buy) order on the Exchange Book. Proposed Rule 7.31(d)(5)(B)(2) would provide that a CCO would also not be eligible to trade when the PBBO or NBBO is locked or crossed. The Exchange believes that by making a CCO ineligible to trade in the above-described circumstances, the Exchange would reduce the potential to trade through the PBBO or BBO. This would be new functionality on Pillar and is not based on how CCS currently

[11] Pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1–1(T)(a) thereunder, an order for the account of a member (*i.e.,* a Yielding Order), does not need to yield priority, parity, or precedence in execution to orders for the account of another member. 15 U.S.C. 78k(a)(1)(G) and 17 CFR 240.11a1–1(T)(a). Consistent with these requirements, under current rules, G Orders do not always yield to DMM interest. *See, e.g.,* Rule 115A(a)(1)(D) (at the same price, G Orders do not yield to DMM interest in the opening transaction).

[12] *See* Rule 1000(e)(ii)(B) and (e)(iii)(A)(2) (providing that CCS interest yields to all displayed and non-displayed interest when trading at the BBO or outside the BBO).

[13] *See* NYSE Arca Rule 7.36–E(e)(4) and NYSE National Rule 7.36(e)(4) (Tracking Orders have fourth priority behind all other orders).

[14] The Core Trading Session begins at 9:30 a.m. Eastern Time and ends at the conclusion of Core Trading Hours. *See* Rule 7.34(a)(2). The term ''Core Trading Hours'' means ''the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time.'' *See* Rule 1.1(d).

[15] *See* Rule 51(a).

[16] *See* NYSE Tape A Pillar Filing, *supra* note 6.

[17] An Aggressing Order is a buy (sell) order that is or becomes marketable against sell (buy) interest on the Exchange Book. *See* Rule 7.36(a)(6). A resting order may become an Aggressing Order if its working price changes, if the PBBO or NBBO is updated, because of changes to other orders on the Exchange Book, or when processing inbound messages. *Id.*

[18] *See* Rule 1000(e)(iii)(A)(4).

function. This proposed rule change is based in part on how Tracking Orders function, which are not eligible to trade when the PBBO is locked or crossed.[19]

Proposed Rule 7.31(d)(5)(C) would describe how CCOs would function when resting on the Exchange Book and would provide that multiple CCOs with the same limit price would be ranked by time. Proposed Rule 7.31(d)(5)(C)(1) would provide that at the same price, a CCO with a later working time would trade ahead of a CCO with an earlier working time that is not designated as eligible for a partial execution and cannot execute in full against the Aggressing Order. In such case, the CCO with a later working time would execute first because the CCO with the earlier working time chose to forego a partial execution in favor of executing against another incoming order that is large enough to execute against its total quantity. This would be new functionality on Pillar and is not based on how CCS currently function. This proposed rule text is based in part on how Tracking Orders function, as described in the second sentence of NYSE Arca Rule 7.31–E(d)(4)(B) and NYSE National Rule 7.31(d)(4)(B).

Proposed Rule 7.31(d)(5)(C)(2) would describe how an Aggressing Order to buy (sell) with a Minimum Trade Size (''MTS'') Modifier[20] would interact with a resting CCO. Rule 7.31(i)(3)(F) generally provides that if a sell (buy) order does not meet the MTS, the order with an MTS Modifier will not trade and will be ranked in the Exchange Book. Proposed Rule 7.31(d)(5)(C)(2) would provide that an Aggressing Order to buy (sell) with an MTS Modifier would ignore a resting CCO to sell (buy) if the CCO does not meet the order's MTS. This would be new functionality and is consistent with the operation of CCOs, which is to allow the DMM to provide additional, supplemental liquidity of last resort that is ranked behind all other displayed and non-displayed orders. If a CCO does not meet the MTS of the Aggressing Order, the order with an MTS would ignore the CCO and seek to execute against the next available order resting on the Exchange Book, which may be at another price.

Proposed Rule 7.31(d)(5)(D) would provide that a CCO may be designated with a Self Trade Prevention (''STP'') Modifier and would be rejected if combined with any other modifiers. This proposed functionality is new, as CCS interest cannot currently be designated with an STP Modifier.[21] The Exchange believes that making STP Modifiers available for CCOs would provide DMMs with more tools to reduce the potential for two orders to interact if they are from the same entity. By specifying that CCOs cannot be combined with other modifiers, the rule provides transparency that a CCO cannot be combined with other modifiers defined in Rule 7.31(i).

Rule 7.16 establishes requirements relating to short sale orders. Rule 7.16(f)(5) sets forth how short sale orders are processed during a Short Sale Period, which is defined in Rule 7.16(f)(4). Proposed new Rule 7.16(f)(5)(E) would provide that, during a Short Sale Period, the working price of CCOs would not be adjusted and that CCOs would not trade at or below the NBB. This proposed text is based on how Tracking Orders function during a Short Sale Period, as described in NYSE Arca Rule 7.16–E(f)(5)(E) and NYSE National Rule 7.16(f)(5)(E), which both provide that, during a Short Sale Period, the working price of Tracking Orders will not be adjusted and that Tracking Orders will not be eligible to trade at or below the NBB.

Rule 7.37(b) describes how an Aggressing Order is allocated among contra-side orders at each price. The Exchange maintains separate allocation wheels on each side of the market for displayed and non-displayed orders at each price. The Exchange proposes to amend Rule 7.37(b) to set forth how CCOs would participate in the allocation process.

Consistent with the proposed amendment to Rule 7.36(e), described above, to add a new Priority category for CCOs, the Exchange proposes to amend Rule 7.37(b)(1) to add that CCOs would be allocated after all other interest at that price.[22] Multiple CCOs at that price would be allocated on time. To effect this change, the Exchange proposes to amend Rule 7.37(b)(1) to add new sub-paragraph (I) to provide that next, CCOs ranked Priority 5—CCOs would be allocated based on time. This proposed functionality is based in part on how CCS functions, as CCS interest yields to all other interest when trading at the Exchange BBO or at prices outside the BBO.

Orders Not Available to Designated Market Makers

The Exchange proposes to amend Rule 7.31(a)(1), which describes Market Orders, and Rule 7.31(i)(4), which describes the Last Sale Peg Modifier, to specify that neither of these order types would be available to DMMs when the Exchange transitions Exchange-listed securities to Pillar. These proposed changes are based on Rule 104(b)(vi), which states that DMMs may not enter Market Orders or Buy Minus Zero Plus instruction[23] in Exchange-listed securities.

Implementation

Subject to approval of this proposed rule change, the Exchange proposes to implement this proposed rule change when the Exchange transitions NYSE-listed securities to the Pillar trading platform, which is anticipated to begin in the third quarter of 2019.[24]

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[26] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[19] *See* NYSE Arca Rule 7.31–E(d)(4) and NYSE National Rule 7.31(d)(4).

[20] In sum, an order with an MTS Modifier would only trade with contra-side orders that, either individually or in the aggregate, satisfy the order's minimum trade size condition. *See* Rule 7.31(i)(3) for a full description of the MTS Modifier.

[21] *See* Rule 13(f)(3)(B) (stating that the STP modifier is not available for d-Quotes or DMM interest).

[22] Rule 7.37(b)(1) sets forth the following allocation sequence: (1) Market Orders trade first based on time; (2) orders with Setter Priority as described in Exchange Rule 7.36(h) receive an allocation; (3) orders ranked Priority 2—Displayed Orders are allocated on parity by Participant; (4) orders ranked Priority 3—Non-Display Orders, other than Mid-Point Liquidity (''MPL'') Orders with an MTS Modifier, are allocated on parity by Participant; (5) MPL Orders with an MTS Modifier are allocated based on MTS size (smallest to largest) and time; (6) D Orders trading at a discretionary price will be allocated on parity by Floor Broker Participant; (7) the display quantity of orders ranked Priority 4—Yielding Orders will be allocated based on time; and then (8) the non-display quantity of orders ranked Priority 4—Yielding Orders will allocated based on time.

[23] The Last Sale Peg Modifier is based on the Buy Minus Zero Plus instruction. *See* Rule 13(f)(4). *See also* Securities Exchange Act Release No. 85158 (February 15, 2019), 84 FR 5794 (February 22, 2019) (SR–NYSE–2018–52) (Approval Order).

[24] *See supra* note 5.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

Proposed Capital Commitment Order

The Exchange believes that the proposed CCO would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because it would provide DMMs with functionality currently available on the Exchange when Exchange-listed securities transition to Pillar. The proposed CCO would therefore promote continuity for the DMMs in the tools they have available to meet their affirmative obligation to maintain depth and continuity. The proposed rule change is based on existing functionality with differences in rule text to reflect Pillar terminology and to streamline and simplify the operation of CCOs as compared to CCS interest.

The proposed CCO is based in part on current CCS functionality, including that it would only be available to DMMs in their assigned securities and would be non-displayed liquidity of last resort at a price. Like CCS interest, the CCO would enable DMMs to provide additional liquidity at specific price points in their assigned securities when NYSE-listed securities transition to Pillar. The Exchange notes that there is no need to offer this modifier to non-DMMs because they are the only member organizations on the Exchange with the affirmative obligation to engage in a course of dealings for their own accounts to assist in the maintenance, so far as practicable, of a fair and orderly market, including the maintenance of price continuity with reasonable depth.[27] Specifically, DMMs have an obligation to use their own capital when lack of price continuity, lack of depth, or disparity between supply and demand exists or is reasonably to be anticipated.[28] Like CCS interest, the CCO would allow DMMs to trade in their assigned securities at the CCO's working price without contributing to visible depth of market.[29]

The Exchange believes that the proposed differences to how the CCO would function as compared to CCS would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed differences are designed to streamline the functionality and simplify the operation of such liquidity, while still achieving the same goal to provide the DMMs with a tool to meet their unique affirmative obligations. To achieve this goal, the Exchange proposes that the CCO would function similarly to Tracking Orders, as described in NYSE Arca Rule 7.31–E(d)(4) and NYSE National Rule 7.31(d)(4), in that a CCO would be a Limit Order that is not displayed, it would not trade on arrival, and instead would be triggered to trade by a contra-side Aggressing Order that has exhausted all other interest eligible to trade at the CCO's working price and is equal to or less than the size of the CCO. Also similar to the Tracking Order, a CCO with a later working time would trade ahead of a CCO with an earlier working time (which can only be from the same DMM) if not designated for a partial execution and could not execute in full against the Aggressing Order. The Exchange believes it promotes just and equitable principles of trade for the CCO with the later working time to trade ahead of a same-priced CCO Order with an earlier working time if the earlier CCO chose to forgo the option for a partial execution, particularly since all CCOs in a security are entered by the same DMM. For similar reasons, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system for an Aggressing Order with an MTS to ignore a CCO because if an Aggressing Order with an MTS has a condition that it is not eligible to trade, the Exchange does not believe that the Aggressing Order with an MTS should be denied an opportunity to trade if the MTS could otherwise be met by other orders on the Exchange Book.

The Exchange believes it would remove impediments to and perfect the mechanism of a free and open market and a national market system to retain the optional functionality currently available for CCS for a CCO to provide a partial execution to an incoming order, as such option would provide for more execution opportunities at the Exchange. Similarly, the Exchange believes it would remove impediments to and perfect the mechanism of a free and open market and a national market system for an arriving CCO to trigger a resting D Order to trade because it would provide for additional execution opportunities for D Orders. Because CCOs would trade at their limit price, the Exchange believes that the proposal to make such orders ineligible to trade if the limit price is equal to or through the PBBO, NBBO, Price Bands, or resting orders on the Exchange Book, or if the PBBO or NBBO is crossed, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would reduce the potential for a CCO to trade through the PBBO, NBBO or resting orders on the Exchange Book.

The Exchange believes that the proposed processing of sell short CCOs during a Short Sale Period under proposed Rule 7.16(f)(5)(E) would remove impediments to and perfect the mechanism of a fair and orderly market because it would provide that CCOs would not trade at or below the NBB during a Short Sale Period in violation of Rule 201 of Regulation SHO. Proposed Rule 7.16(f)(5)(E) is also based on NYSE Arca Rule 7.16–E(f)(5)(E) and NYSE National Rule 7.16(f)(5)(E) for Tracking Orders.

Lastly, the Exchange believes the proposed changes to Rules 7.36 and 7.37 describing how CCOs would be ranked and allocated would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because having CCOs as an interest of last resort is consistent with how CCS currently functions when trading at prices equal to the BBO or outside the BBO. Prioritizing CCOs behind Yielding Orders[30] complies with subsection (G) of Section 11(a)(1)[31] of the Act (the ''G Rule'') because CCOs represent DMM interest only. In sum, the G Rule requires orders entered by DMMs or Floor Brokers to yield priority to all orders entered by non-members of the Exchange at the same price. Therefore, the G Rule does not require that Yielding Orders yield priority to CCOs, which may only be entered by DMMs.

Orders Not Available to Market Makers

The Exchange believes the proposed changes to Rule 7.31(a)(1) to specify that Market Orders would not be available to DMMs and Rule 7.31(i)(4) to specify that the Last Sale Peg Modifier would not be available to DMMs would promote just and equitable principles of trade because these changes would provide additional transparency by specifying that Market Orders and the Last Sale Peg Modifier would not be available to DMMs when the Exchange transitions Exchange-listed securities to Pillar. These proposed changes are based on current functionality, as described in Rule 104(d)(iv), which states that Market Orders and the Buy Minus Zero

[27] *See* Rule 104(f)(ii).

[28] *Id.*

[29] *See* Securities Exchange Act Release Nos. 75578 (July 31, 2015), 80 FR 47008, 47013 at n. 61 (August 6, 2015) (SR–NYSE–2015–26) (Order Granting Approval of a Proposed Rule Change Making Permanent the Rules of the NYSE New Market Model Pilot and the NYSE Supplemental Liquidity Providers Pilot).

[30] Rule 7.31(i)(5). Yielding Orders aid Floor brokers in complying with the G Rule when trading on Pillar by yielding priority to all displayed and non-displayed orders at the same price.

[31] 15 U.S.C. 78k(a)(1)(G).

Plus modifier are not available to DMMs trading in Exchange-listed securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[32] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would provide DMMs with functionality currently available on the Exchange when Exchange-listed securities transition to Pillar. The Exchange does not believe that the proposed CCO would impose any burden on competition that is not necessary or appropriate because such orders are designed to provide additional liquidity on the Exchange without providing DMMs with any execution priority for CCOs over other orders. This order type thus does not confer any execution priority benefits to DMMs, but rather, would assist the DMM in meeting its affirmative obligation to maintain depth and continuity in its assigned securities. The proposed rule change also specifies that Market Orders and the Last Sale Peg Modifier would continue to be unavailable to DMMs when Exchange-listed securities transition to Pillar, as is the case today under Rule 104(d)(iv). The Exchange does not believe this proposed rule change would impose any burden on competition because these order types are not necessary for the DMMs to meet their affirmative obligations pursuant to Rule 104 and are not currently available to DMMs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2019–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2019–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2019–22 and should be submitted on or before May 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09506 Filed 5–8–19; 8:45 am]

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[32] 15 U.S.C. 78f(b)(8).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85766; File No. SR–CboeBZX–2019–015]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Units of Each of (i) Cboe Vest S&P 500® Buffer Enhanced Growth Protect Strategy ETNs; (ii) Cboe Vest S&P 500® Enhanced Growth Strategy ETNs; (iii) Cboe Vest S&P 500® Accelerated Return Strategy ETNs; and (iv) Cboe Vest S&P 500® Power Buffer Strategy ETNs Under Rule 14.11(d), Equity Index-Linked Securities

May 3, 2019.

On March 4, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade units of each of (i) the Cboe Vest S&P 500® Buffer Enhanced Growth Protect Strategy ETNs; (ii) the Cboe Vest S&P 500® Enhanced Growth Strategy ETNs; (iii) the Cboe Vest S&P 500® Accelerated Return Strategy ETNs; and (iv) the Cboe Vest S&P 500® Power Buffer Strategy ETNs under BZX Rule 14.11(d), which governs the listing and trading of Equity Index-Linked Securities on the Exchange. The proposed rule change was published for comment in the **Federal Register** on March 22, 2019.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85347 (Mar. 18, 2019), 84 FR 10863.

[4] 15 U.S.C. 78s(b)(2).

the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is May 6, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates June 20, 2019 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2019–015).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09509 Filed 5–8–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85776; File No. SR–ICEEU–2019–006]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the CDS Risk Management Model Description

May 3, 2019.

I. Introduction

On March 13, 2019, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain amendments to its CDS Risk Model Description document to incorporate risk model enhancements related to the single name credit default swap (''CDS'') liquidity charge methodology. The proposed rule change was published for comment in the **Federal Register** on March 22, 2019.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe proposes a revised approach to computing single name CDS liquidity charges.[4] ICE Clear Europe might incur additional costs to unwind positions in the event of a clearing member default. Therefore, the ICE Clear Europe CDS risk model includes a provision to account for the additional liquidation cost due to the exposure to Bid/Offer Width (''BOW''). This provision is called a liquidation charge and such charges are computed separately for single names and indices.

ICE Clear Europe proposes to introduce minimum instrument liquidity requirements independent of instrument maturities.[5] ICE Clear Europe's current spread-based liquidity charge approach features instrument liquidity requirements that decay with time to maturity for fixed credit spread levels.[6] The proposed rule change introduces minimum liquidity requirements for individual instruments, independent of time to maturity for the considered instruments, and thus establishes minimum liquidity charges that do not decay over time as contract maturity is approached.[7] The proposed calculation for single name CDS liquidity charges at the instrument level incorporates a price-based bid-offer width floor component to provide stability and anti-procyclicality requirements, as well as a dynamic spread-based BOW component to reflect the additional risk associated with distressed market conditions.[8] The values of such price-based BOW and spread-based BOW are fixed factors, which are subject to at least monthly reviews and updates by ICE Clear Europe Risk Management Department with consultation with the Risk Working Group.[9]

ICE Clear Europe proposes other enhancements to the liquidity charge calculation at the single name level.[10] The current liquidity charge approach at the single name level accounts for the liquidation cost across the curve. All positions are aggregated and priced at each maturity interval separately as a synthetic forward CDS instrument. This current approach introduces potential sub-additivity at the single name level, as it may result in a higher liquidity charge than the sum of the single name instrument requirements.[11]

Under the proposed calculation, liquidity charges at the single name level will be computed by first calculating the liquidity requirements for each individual instrument position in the portfolio, and then summing all instrument liquidity requirements for positions with the same directionality, *i.e.,* bought or sold protection.[12] The liquidity charge requirements at the single name level will be the greatest liquidity requirement associated with either the sum of all bought protection position liquidity requirements, or the sum of all sold protection position liquidity requirements.[13] Under this proposed approach, the portfolios' liquidity charge cannot exceed the sum of the individual instrument's requirements.[14] There are no changes to the liquidity charge calculation at the portfolio level.[15]

ICE Clear Europe expects these enhancements will ensure more stable liquidity requirements for instruments across the curve and simplify ICE Clear Europe's liquidity charge methodology.[16] As stated above, the current single name level liquidity requirements are based on forward CDS spread levels and are, in general, more difficult to calculate as forward spread levels are not observable across the curve.[17] ICE Clear Europe, as part of its end-of-day price discovery process, provides end-of-day pricing data for instruments in which clients have open positions, which will, under the proposed approach, allow for easier replication for clients who wish to estimate liquidity charges for hypothetical and current positions.[18]

III. Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[19] For the reasons given below, the Commission finds that the proposed

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 85350 (March 18, 2019), 84 FR 10869 (March 22, 2019) (SR–ICEEU–2019–006) (''Notice'').

[4] Capitalized terms not otherwise defined herein shall have the meanings given to them in the CDS Policies or ICE Clear Europe Rulebook.

[5] Notice, 84 FR at 10869.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] 15 U.S.C. 78s(b)(2)(C).

rule change is consistent with Section 17A(b)(3)(F) of the Act [20] and Rules 17Ad–22(e)(4)(i) and (ii) and (e)(6)(i) and (v) thereunder.[21]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and, in general, to protect investors and the public interest.[22]

As discussed above, the proposed rule change establishes minimum liquidity charges that do not decay over time as the contract maturity is approached. The Commission believes that this approach promotes a more conservative margin calculation approach by maintaining a minimum liquidity charge through an instrument's maturity. The Commission believes that this ensures that ICEEU requires clearing members to maintain sufficient margin to cover losses through the entire contract life rather than reducing these requirements as maturity approaches.

Further, as discussed above, under the proposed enhancements to the liquidity charge calculation, the portfolios' liquidity charge cannot exceed the sum of the individual instrument's requirements, which is a possibility under the current approach discussed above. The Commission believes that this proposal will in turn ensure more stable liquidity requirements for instruments across the curve and not require higher margins than necessary. Further, by summing all instrument liquidity requirements for positions with the same directionality rather than across the curve, the Commission believes that ICEEU is simplifying the process for clearing members as the approach is considered easier to calculate than the current approach, which is based on forward spread levels and hence more difficult to observe. Consequently, the Commission believes that this in turn will promote more accurate margin calculation by clearing members.

The Commission believes that the simplified and more conservative approach to calculating the liquidity charge for single name CDS discussed above will allow ICE Clear Europe's members to more easily calculate margin requirements in a way that promotes the prudent accumulation of financial resources.

Therefore, the Commission finds that the proposed rule change would provide ICE Clear Europe with the financial resources to ensure the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in their custody or control. For these same reasons, the Commission also finds that the proposed rule change would, in general, protect investors and the public interest.

B. Consistency With Rule 17Ad–22(e)(4)(i) and (ii)

Rule 17Ad–22(e)(4)(i) and (ii) requires, in relevant part, that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence and maintain financial resources to enable it to cover the default of the two participant families that would potentially cause the largest aggregate credit exposure for ICE Clear Europe in extreme but plausible market conditions.[23]

As discussed above, the Commission believes that the enhancements to the margin calculations related to single name CDS will help to maintain the soundness of ICE Clear Europe's margin requirements by promoting conservative, simple, and stable margin requirements that better capture the portfolio risks of single name CDS. The Commission believes that this in turn will help to ensure that ICE Clear Europe can maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions.

C. Consistency With Rule 17Ad–22(e)(6)(i) and (v)

Rule 17Ad–22(e)(6)(i) requires, in relevant part, that ICE Clear Europe cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[24] Rule 17Ad–22(e)(6)(v) requires, in relevant part, that ICE Clear Europe cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.[25]

As discussed above, the Commission believes that the enhancements to the risk model related to calculating the liquidity charges for single name CDS improves ICE Clear Europe's ability to avoid the losses that could result from the miscalculation of its credit exposures for particular products and thus produces margin levels more commensurate with the risks and particular attributes of each relevant product, portfolio, and market. In particular, by maintaining a minimum liquidity charge through an instrument's maturity, the Commission believes that clearing members will be better able to maintain sufficient margin to cover losses over time rather than reducing these requirements as maturity approaches. Moreover, as discussed above, by changing the liquidity charge requirements at the single name level so that the portfolios' liquidity charge cannot exceed the sum of the individual instrument's requirements, the Commission believes that this proposal will ensure more stable liquidity requirements for instruments and not require higher margins than necessary and that are commensurate with, the risks and particular attributes of each relevant product.

Therefore, for these reasons discussed above, the Commission finds that the proposed rule change is consistent with is consistent with Rule 17Ad–22(e)(6)(i) and (v).[26]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act [27] and Rules 17Ad–22(e)(4)(i) and (ii) and (e)(6)(i) and (v) thereunder.[28]

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(4)(i) and (ii) and (e)(6)(i) and (v).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 17 CFR 240.17Ad–22(e)(4)(i) and (ii).

[24] 17 CFR 240.17Ad–22(e)(6)(i).

[25] 17 CFR 240.17Ad–22(e)(6)(v).

[26] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] 17 CFR 240.17Ad–22(e)(4)(i) and (ii) and (e)(6)(i) and (v).

It is therefore ordered pursuant to Section 19(b)(2) of the Act [29] that the proposed rule change (SR–ICEEU–2019–006) be, and hereby is, approved.[30]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09510 Filed 5–8–19; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15931 and #15932; Ohio Disaster Number OH–00056]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Ohio

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Ohio (FEMA–4424–DR), dated 04/08/2019.

Incident: Severe Storms, Flooding, and Landslides.

Incident Period: 02/05/2019 through 02/13/2019.

DATES: Issued on April 30, 2019.

Physical Loan Application Deadline Date: 06/07/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 01/08/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of OHIO, dated 04/08/2019, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Belmont

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. 2019–09544 Filed 5–8–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15948 and #15949; California Disaster Number CA–00306]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA–4431–DR), dated 05/01/2019.

Incident: Severe Winter Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/13/2019 through 02/15/2019.

DATES: Issued on May 1, 2019.

Physical Loan Application Deadline Date: 07/01/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 02/03/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/01/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Calaveras, Colusa, Marin, Mariposa, Mendocino, Modoc, Napa, Riverside, Santa Barbara, Shasta, Trinity.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 159486 and for economic injury is 159490.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–09533 Filed 5–8–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15950 and #15951; Oregon Disaster Number OR–00098]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oregon

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oregon (FEMA–4432–DR), dated 05/02/2019.

Incident: Severe Winter Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/23/2019 through 02/26/2019.

DATES: Issued on May 2, 2019.

Physical Loan Application Deadline Date: 07/01/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 02/03/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/02/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

[29] 15 U.S.C. 78s(b)(2).

[30] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[31] 17 CFR 200.30–3(a)(12).

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Coos, Curry, Douglas, Jefferson, Lane.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 159506 and for economic injury is 159510.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–09534 Filed 5–8–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15944 and #15945; Mississippi Disaster Number MS–00111]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–4429–DR), dated 04/23/2019.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 02/22/2019 through 03/29/2019.

DATES: Issued on April 30, 2019.

Physical Loan Application Deadline Date: 06/24/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 01/23/2020.

ADDRESSES: *Submit completed loan applications to:* U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Mississippi, dated 04/23/2019, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Alcorn, Carroll, Itawamba, Lafayette, Lee, Montgomery, Panola, Prentiss, Quitman, Tallahatchie, Union, Webster, Yalobusha.

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. 2019–09531 Filed 5–8–19; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10700]

30-Day Notice of Proposed Information Collection: Overseas Schools Grant Status Report

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to June 10, 2019.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Thomas Shearer, Department of State, Office of Overseas Schools, A/OPR/OS, Room H328, SA–1, Washington, DC 20522–0132, who may be reached on 202–261–8200 or at *shearertp@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Overseas Schools Grant Status Report.
- *OMB Control Number:* 1405–0033.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Bureau of Administration, A/OPR/OS.
- *Form Number:* DS–2028.
- *Respondents:* Overseas schools grantees.
- *Estimated Number of Respondents:* 192.
- *Estimated Number of Responses:* 192.
- *Average Time per Response:* 15 minutes.
- *Total Estimated Burden Time:* 48 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service Posts for dependents of U.S. Government personnel stationed abroad, and for assisting American-sponsored overseas schools to demonstrate U.S. educational philosophy and practice. The information gathered provides the technical and professional staff of A/OPR/OS the means by which obligations, expenditures and reimbursements of the grant funds are

monitored to ensure the grantee is in compliance with the terms of the grant.

Methodology

Information is collected via electronic and paper submission.

Michael J. Capozzi,

Acting Executive Director.

[FR Doc. 2019–09498 Filed 5–8–19; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 10759]

Notice of Charter Renewal for the U.S. Advisory Commission on Public Diplomacy

SUMMARY: The official designation of this advisory committee is the United States Advisory Commission on Public Diplomacy.

The Commission was originally established under Section 604 of the United States Information and Educational Exchange Act of 1948, as amended, and under Section 8 of Reorganization Plan Number 2 of 1977. It was reauthorized pursuant to Section 702 of the Department of State Authorities Act, Fiscal Year 2017 (Pub. L. 114–323), which amended the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) and re-authorized the Commission through September 30, 2020.

The U.S. Advisory Commission on Public Diplomacy appraises U.S. government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

The Charter renewal was filed on April 29, 2019.

For further information about the Commission, please contact John J. Daigle, the Commission's Designated Federal Officer, at *DaigleJJ@state.gov*.

John J. Daigle,

Designated Federal Official, Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 2019–09580 Filed 5–8–19; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice: 10762]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Charged With Buddha's Blessings: Relics From an Ancient Stupa'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Charged with Buddha's Blessings: Relics from an Ancient Stupa,'' 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 Rubin Museum of Art, New York, New York, from on or about May 31, 2019, until on or about June 8, 2020, 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: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 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, Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–09581 Filed 5–8–19; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1275X]

Transkentucky Transportation Railroad Inc.—Discontinuance of Trackage Rights Exemption—in Mason County, Ky.

Transkentucky Transportation Railroad Inc. (TTI),[1] a Class III rail carrier, has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue approximately 13.1 miles of trackage rights over CSXT's Cincinnati Subdivision between milepost CA 595.6, near Springdale, and milepost CA 608.7, near Charleston Bottoms, in Mason County, Ky. (the Line).[2] There is one station on the Line at Maysville, Ky. (FSAC 70). The Line traverses U.S. Postal Service Zip Code 41056.

TTI has certified that: (1) No traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [3] to subsidize continued rail service has been received, this exemption will be effective on June 8, 2019, unless stayed

[1] TTI is a wholly owned subsidiary of CSX Transportation, Inc. (CSXT).

[2] *Transkentucky Transp. R.R.—Trackage Rights Exemption—CSX Transp., Inc.,* FD 31595 (STB served Feb. 9, 1990).

[3] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by May 17, 2019, and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[4] must be filed by May 20, 2019.[5] Petitions to reopen must be filed by May 29, 2019, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to TTI's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: May 3, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–09537 Filed 5–8–19; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of modification of action.

SUMMARY: In accordance with the direction of the President, the U.S. Trade Representative (Trade Representative) has determined to modify the action being taken in this Section 301 investigation by increasing the rate of additional duty from 10 percent to 25 percent for the products of China covered by the September 2018 action in this investigation. The Trade Representative has further determined to establish a process by which interested persons may request that particular products classified within a tariff subheading covered by the September 2018 action be excluded from the additional duties.

DATES: The rate of additional duty will increase to 25 percent with respect to products covered by the September 2018 action on May 10, 2019.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Associate General Counsel Arthur Tsao, Assistant General Counsel Philip Butler, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For questions on customs classification or implementation of additional duties on products covered by the September 2018 action, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. September 2018 Action

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), and 83 FR 40823 (August 16, 2018).

In a notice published on September 21, 2018 (83 FR 47974), the Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the investigation by imposing additional duties on products of China with an annual trade value of approximately $200 billion. The rate of additional duty initially was 10 percent. Those additional duties were effective starting on September 24, 2018, and currently are in effect. Under Annex B of the September 21 notice, the rate of additional duty was set to increase to 25 percent on January 1, 2019. In the September 21 notice, the Trade Representative stated that he would continue to consider the actions taken in this investigation, and if further modifications were appropriate, he would take into account the extensive public comments and testimony previously provided in response to the notices published on July 17, 2018 (83 FR 33608) and August 7, 2018 (83 FR 38760).

On September 28, 2018 (83 FR 49153), the Trade Representative issued a conforming amendment and modification of the September 21 notice. The current notice refers to the September 21 notice, as modified by the September 28 notice, as the 'September 2018 action.'

On December 19, 2018 (83 FR 65198), in accordance with the direction of the President, the Trade Representative determined to modify the September 2018 action by postponing until March 2, 2019, the increase in the rate of additional duty to 25 percent. The Annex to the December 19 notice, which superseded Annex B to the September 21 notice, amended the Harmonized Tariff Schedule of the United States (HTSUS) to reflect this postponement of the increase in the rate of duty applicable to the September 2018 action.

On March 5, 2019 (84 FR 7699), in accordance with the direction of the President, the Trade Representative determined to modify the September 2018 action by postponing until further notice the increase in the rate of additional duty to 25 percent. Annex B of the September 21 notice (83 FR 47974) and the Annex to the December 19 notice (83 FR 65198) were rescinded. In accordance with Annex A of the September 21 notice, the rate of additional duty under the September 2018 action remained at 10 percent until further notice.

B. Determination to Further Modify September 2018 Action

The United States is engaging with China with the goal of obtaining the elimination of the acts, policies, and practices covered in the investigation. The leaders of the United States and China met on December 1, 2018, and agreed to hold negotiations on a range of issues, including those covered in this Section 301 investigation. *See https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-presidents-working-dinner-china/.* Since the meeting on December 1, the United States and China have engaged in additional rounds of negotiation on these issues, including meetings in March, April, and May of 2019. In the most recent negotiations, China has chosen to retreat from specific commitments agreed to in earlier rounds. In light of the lack of progress in discussions with China, the President has directed the Trade Representative to increase the rate of additional duty to 25 percent.

Section 301(b) of the Trade Act of 1974, as amended (Trade Act), provides that the Trade Representative ''shall take all appropriate and feasible action authorized under [Section 301(c)] to obtain the elimination of [the] act, policy, or practice [under investigation].'' Section 307(a)(1) of the Trade Act authorizes the Trade Representative to modify or terminate any action being taken under Section 301, subject to the specific direction, if any, of the President if ''the burden or restriction on United States commerce . . . of the acts, policies, and practices, that are the subject of such action has increased or decreased, or such action is

[4] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[5] Because this is a discontinue proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

being taken under Section [301(b)] of this title and is no longer appropriate.'' In light of the lack of progress in the additional rounds of negotiations since March 2019, and at the direction of the President, the Trade Representative has determined that it is appropriate for the rate of additional duty under the September 2018 action to increase to 25 percent on May 10, 2019.

The Trade Representative's decision to modify the September 2018 action takes into account the extensive public comments and testimony, as well as advice from advisory committees, concerning the actions proposed in the notices issued in advance of the September 2018 action (83 FR 33608 and 83 FR 38760). Those notices, among other things, requested comments on whether the rate of additional duties should be 10 percent or 25 percent. The Trade Representative's decision also reflects the advice of the interagency Section 301 Committee.

The Annex to this notice amends the Harmonized Tariff Schedule of the United States to provide that the rate of additional duties for the September 2018 action will increase to 25 percent on May 10, 2019.

Pursuant to Sections 301(b), 301(c), 304(a), and 307(a) of the Trade Act, the Trade Representative has determined that the Office of the United States Trade Representative (USTR) will establish a process by which interested persons may request that particular products classified within an HTSUS subheading covered by the September 2018 action be excluded from the additional duties. USTR will publish a separate notice describing the product exclusion process, including the procedures for submitting exclusion requests, and an opportunity for interested persons to submit oppositions to a request.

Annex

Effective with respect to goods (i) entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on May 10, 2019, and (ii) exported to the United States on or after May 10, 2019, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified:

1. By amending U.S. Note 20(e) to subchapter III of chapter 99 by deleting ''10 percent'' each place that it appears, and inserting ''25 percent'' in lieu thereof;

2. by amending U.S. Note 20(g) to subchapter III of chapter 99 by deleting ''10 percent'' each place that it appears, and inserting ''25 percent'' in lieu thereof;

3. by amending the Rates of Duty 1-General column of heading 9903.88.03 by deleting ''10%'', and inserting ''25%'' in lieu thereof; and

4. by amending the Rates of Duty 1-General column of heading 9903.88.04 by deleting ''10%'', and inserting ''25%'' in lieu thereof.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

[FR Doc. 2019–09681 Filed 5–8–19; 8:45 am]

BILLING CODE 3290–F9–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0333]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Small Unmanned Aircraft Registration System (sUAS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) renewal approval for information collection 2120–0765. Aircraft registration is necessary to ensure personal accountability among all users of the national airspace system. Aircraft registration also allows the FAA and law enforcement agencies to address non-compliance by providing the means for identifying an aircraft's owner and operator. This collection also permits individuals to de-register or update their record in the registration database.

DATES: Written comments should be submitted by July 8, 2019.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Ken Thompson, Manager, Aircraft Registration Branch, AFB–710, P.O. Box 25504, Oklahoma City, OK 73125.

By fax: 405–954–8068.

FOR FURTHER INFORMATION CONTACT: Bonnie Lefko at: *bonnie.lefko@faa.gov;* or by phone: 405–954–7461.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0765.

Title: Small Unmanned Aircraft Registration System (sUAS).

Form Numbers: None.

Type of Review: Renewal of existing collection.

Background: The Secretary of the Department of Transportation (DOT) and the Administrator of the Federal Aviation Administration (FAA) affirmed that all unmanned aircraft, including model aircraft, are aircraft. As such, in accordance with 49 U.S.C. 44101(a) and as further prescribed in 14 CFR part 48, registration is required prior to operation. *See* 80 FR 63912, 63913 (October 22, 2015). Aircraft registration is necessary to ensure personal accountability among all users of the national airspace system. Aircraft registration also allows the FAA and law enforcement agencies to address non-compliance by providing the means for identifying an aircraft's owner and operator.

Subject to certain exceptions discussed below, aircraft must be registered prior to operation. See 49 U.S.C. 44101–44103. Upon registration, the Administrator must issue a certificate of registration to the aircraft owner. See 49 U.S.C. 44103.

Registration, however, does not provide the authority to operate. Persons intending to operate a small unmanned aircraft must operate in accordance with section 336 of Public Law 112–95, part 107 or part 91, in accordance with a waiver issued under part 107, in accordance with an exemption issued under 14 CFR part 11 (including those persons operating under an exemption issued pursuant to section 333 of Public Law 112–95), or in conjunction with the issuance of a special airworthiness certificate, and are required to register.

Respondents: Approximately 300,000 affected sUAS registrations and 14,000 de-registrations annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 10 minutes per response to register and 3 minutes per response to de-register.

Estimated Total Annual Burden: Approximately 51,000 hours.

Issued in Oklahoma City, OK on May 3, 2019.

John W. Peebles,

Management and Program Analyst, FAA, Civil Aviation Registry, AFB–700.

[FR Doc. 2019–09499 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2019–0229]

Agency Information Collection Activities: Request for Comments; Clearance of a New Approval of Information Collection: Launch and Reentry Licensing Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments on its proposed collection of information pursuant to changes to the FAA's commercial space transportation regulations proposed in the ''Streamlined Launch and Reentry Licensing Requirements'' notice of proposed rulemaking (NPRM). A copy of the NPRM is available in the docket for this notice. This information collection would consolidate two previously approved information collections under one, new OMB Control Number. This collection would allow the FAA to continue ensuring commercial space activities do not unduly jeopardize public health and safety, safety of property, or the national security and foreign policy interests of the United States. The FAA intends to request the Office of Management and Budget's approval of this information collection.

DATES: Written comments should be submitted by July 8, 2019.

ADDRESSES: Please send written comments to:

By Electronic Docket: www.regulations.gov (Enter docket number FAA–2019–0229 into search field).

By mail: Shirley McBride, Program Manager, Federal Aviation Administration, AST–300, 800 Independence Avenue SW, Washington, DC 20591.

By fax: 202–267–5463.

FOR FURTHER INFORMATION CONTACT: Shirley McBride, Program Manager, by email at: *Shirley.McBride@faa.gov;* phone: 202–267–7470.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–NEW.

Title: Streamlined Launch and Reentry Licensing Requirements.

Form Numbers: None.

Type of Review: This is a request for OMB clearance of an information collection that would consolidate two previous collections [1] into one collection under a new OMB Control Number.[2]

Background: 51 U.S.C. Chapter 509 requires that the FAA oversee commercial space transportation activities in the United States, or conducted by United States citizens abroad, to ensure they do not unduly jeopardize the public health and safety, safety of property, or national security or foreign policy interests of the United States. Generally speaking, Chapter 509 requires a person to obtain a license to launch or reenter a vehicle from or to the United States, or a U.S. citizen to obtain a license to launch or reenter a vehicle from or to a point outside the United States.

On April 15, 2019, the FAA published the NPRM titled ''Streamlined Launch and Reentry Licensing Requirements,'' a copy of which you can find in the docket to this notice. The proposed rule would streamline and increase flexibility in the FAA's commercial space regulations; remove obsolete requirements; and, consolidate and revise multiple regulatory parts to apply a single set of licensing and safety regulations across several types of launch and reentry activities and related vehicles. Specifically, the NPRM would eliminate current parts 415, 417, 431, and 435 and replace them with part 450, an updated, streamlined, and consolidated version of the previous requirements. The FAA collected information for those parts pursuant to OMB Control Numbers 2120–0608 and 2120–0643. As a result, the two current Information Collection Requirements [3] associated with those eliminated parts would be obsolete. The FAA proposes to replace the obsolete Information Collection Requirements with a new collection associated with proposed part 450. The new collection reflects the proposed requirements described in detail in the referenced NPRM and summarized below.

Parts 413 and 450 collectively identify information applicants must submit for a vehicle operator license. Part 413 (§ 413.7) sets the manner for submitting an application. Part 450 Subpart B (Requirements to obtain a vehicle operator license) sets the broad application requirements to obtain a vehicle operator license. For example, § 450.41 sets requirements for policy review, § 450.43 for payload review, § 450.45 covers safety, and § 450.47 addresses environmental requirements. Part 450 subpart C (Safety requirements) focuses on safety requirements, some of which must be satisfied by the time of application while others apply post-license. Applicants must, therefore, provide the FAA information showing regulatory compliance both as part of the application and after the FAA grants a license. Part 450 subpart D (Terms and conditions of a vehicle operator license) contains requirements for continuing accuracy of a license and application for modification of a license (§ 450.211), preflight reporting (§ 450.213), post-flight reporting (§ 450.215), and registration of space objects (§ 450.217.)

The FAA's Office of Commercial Space Transportation (AST) uses the information to ensure commercial space activities in the United States, or conducted by United States citizens abroad, do not jeopardize the public health and safety, safety of property, or national security or foreign policy interests of the United States. AST uses the data to assess the risk to public health and safety, and the safety of property. Risk must remain within the limits set in FAA regulations. AST shares other information with government partners (*e.g.,* the National Aeronautics and Space Administration, U.S. Department of Defense, U.S. Department of State) during payload and policy reviews to ensure the

[1] OMB Control Number 2120–0608: Title 14 CFR, Parts 401, 413, 415, 417; Licensing and Safety Requirements for Launch (For Expendable Launch Vehicle). OMB Control Number 2120–0643: Title 14 CFR, Parts 431, 435; Commercial Space Transportation Reusable Launch Vehicle Mission Licensing Regulations (Part 431) and Commercial Space Transportation Reentry of a Vehicle Other Than a Reusable Launch Vehicle Licensing Regulations (Part 435).

[2] OMB Control Number 2120–NEW: Title 14 CFR, Parts 401, 413, 450; Launch and Reentry Licensing Requirements.

[3] Ibid.

proposed activities do not present unacceptable national security or foreign policy implications for the United States.

The FAA collects information before and after the issuance of a vehicle operator license. An applicant's license proposal is assessed in terms of significant policy issues affecting the national security, foreign policy interests, or international obligations of the United States. Information collected allows AST to make a preliminary assessment of a proposed launch or reentry prior to beginning general licensing application procedures. The applicant must also demonstrate that it can safely launch, including with a payload if any, or reenter its vehicle. To this end, AST's safety evaluation process requires an applicant to submit information that includes a description of its system safety program, hazard control strategy, and mishap response plan. Also, operators must meet preflight and post-flight reporting requirements.

Additionally, Article IV of the 1975 Convention on Registration of Objects Launched Into Outer Space (Registration of Space Objects), to which the United States is a signatory, requires details about the orbit of each space object. To meet this obligation, the FAA requires operators to register with AST the name and mission of any payload.

Further, according to the requirements of the National Environmental Policies Act, 42 U.S.C. 4321, et seq., (NEPA), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR parts 1500–1508, and the DOT's Procedures for Considering Environmental Impacts, (that is, DOT Order 5610.1C), applicants must submit environmental information to AST. This includes information concerning proposed new launch or reentry sites and launch or reentry vehicles not currently described in the environmental impact statements, as well as payloads that may have significant environmental impacts if a launch or reentry accident occurs.

For the most part, the information the FAA collects is not collected by other government entities. However, the FAA works with regulated entities and other government agencies to identify areas of duplication. To the extent the FAA identifies duplication, the FAA encourages regulated entities to submit the previously submitted documentation to the FAA in its original format. In general, an applicant can submit information in any format. Unique information routinely constitutes a small portion of the data collected. Furthermore, instead of resubmitting a document to the FAA, the FAA allows a regulated entity to reference previously submitted materials (highlighting any changes).

The FAA expects the information received under prior OMB Control Numbers 2120–0608 and 2120–0643 to be substantively similar to the information received under the new OMB control number.

Respondents: All entities wishing to obtain or maintain a vehicle operator license to conduct commercial space launch or reentry activities would be required to report information from this collection.

Frequency: An operator may submit an initial application for one or multiple launches or reentries or may modify an existing license or may renew an existing license. The FAA estimates it would receive on average 5 initial applications, 9 modifications, and 3 renewals annually.

Estimated Average Burden per Response: Each initial application is estimated to take 2,903 hours, each modification is estimated to take 1,452 hours and each license renewal is expected to take 290 hours.

Estimated Total Annual Burden: The estimated total average annual burden hours is 27,000 hours.

Issued in Washington, DC, on May 3, 2019.

Kelvin B. Coleman,

Deputy Associate Administrator, Office of Commercial Space Transportation.

[FR Doc. 2019–09588 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on a Proposed Change of Airport Property Land Use From Aeronautical to Non-Aeronautical Use at the Myrtle Beach International Airport, Myrtle Beach, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a request from the Horry County, Department of Airports to change approximately 17 acres of airport property located on the southeastern portion of the Myrtle Beach International Airport from aeronautical use to non-aeronautical use. The airport will retain ownership of this parcel while establishing a land lease for a solar panel farm. Currently, ownership of the property provides protection of FAR Part 77 surfaces and compatible land use.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address:

Atlanta Airports District Office, Attn: Rob Rau, Planning Team Lead, 1701 Columbia Ave., Suite 220, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ryan Betcher, Director of General Aviation and Properties, Horry County Department of Airports at the following address:

1100 Jetport Road, Myrtle Beach, SC 29577.

FOR FURTHER INFORMATION CONTACT: Rob Rau, Planning Team Lead, Atlanta Airports District Office, 1701 Columbia Ave., Suite 220, Atlanta, GA 30337–2747, (404) 305–6799. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Horry County Department of Airports to release approximately 17 acres of airport property at the Myrtle Beach International Airport. The land is currently owned and operated by the airport, but not currently in use or planned for aeronautical use. The property will be leased with intent to install a solar panel farm. The proceeds from the lease of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Myrtle Beach International Airport.

Issued in Atlanta, Georgia, on May 3, 2019.

Larry F. Clark,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2019–09584 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. 2019–0016]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for new information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2019–0016 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.*

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James Garland, 202–366–6221, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Transportation Planning Excellence Awards Nomination Form.

OMB Control #: 2125–0615.

Background: Transportation Planning Excellence Awards Nomination Form. The Transportation Planning Excellence Awards (TPEA) Program is a biennial awards program developed by the FHWA and the Federal Transit Administration (FTA) to recognize outstanding initiatives across the country to develop, plan and implement innovative transportation planning practices. The program is co-sponsored by the American Planning Association.

The on-line TPEA nomination form is the tool for submitters to nominate a process, group, or individual involved in a project or process that has used the FHWA and/or the FTA funding sources to make an outstanding contribution to the field of transportation planning. The information about the process, group or individual provided by the submitter may be shared and published if that submission is selected for an award.

The TPEA Program is a biennial awards program and individuals will be asked to submit nominations via the online form every two years. The participants will provide their information by means of the internet.

Respondents: For the TPEA, 35 participants biennially.

Frequency: For the TPEA, nominations are solicited every two years.

Estimated Average Burden per Response: For the TPEA Program, approximately 90 minutes.

Estimated Total Annual Burden Hours: For the TPEA Program, 225 hours in the first year and 225 hours in the third year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 6, 2019.

Michael Howell,

Information Collection Officer.

[FR Doc. 2019–09550 Filed 5–8–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0048]

California Meal and Rest Break Rules; Petition for Determination of Preemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of petition for determination of preemption; request for comments.

SUMMARY: FMCSA requests comments on a petition submitted by the American Bus Association, Inc. (ABA) requesting a determination that the State of California's Meal and Rest Break Rules (MRB Rules), as applied to drivers of passenger-carrying commercial motor vehicles (CMVs) subject to FMCSA's hours of service (HOS) regulations, are preempted by Federal law. FMCSA requests comments in response to this petition.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2019–0048 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

FOR FURTHER INFORMATION CONTACT: Tracy M. White, Enforcement and Litigation Division; FMCSA Office of Chief Counsel; Telephone: (202) 493–0349; email: *Tracy.White@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2019–0048), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and materials online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency

can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2019–0048'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: DOT solicits comments from the public to better inform its preemption determinations. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2018, FMCSA granted petitions filed by the American Trucking Associations, Inc. and the Specialized Carriers and Rigging Association, and determined that the California MRB Rules, as applied to property-carrying CMV drivers subject to FMCSA's HOS regulations, are preempted under 49 U.S.C. 31141. (Docket No. FMCSA–2018–0304; 83 FR 67470 (December 28, 2018)). On January 10, 2019, the ABA submitted a petition to FMCSA seeking a determination that the same provisions of the California MRB Rules, as applied to passenger-carrying CMV drivers subject to FMCSA's HOS regulations, are also preempted under 49 U.S.C. 31141.

The ABA's petition states that the California Labor Code requires employers to ''provide employees with a meal break of not less than 30 minutes for every five hours worked.'' Petition at 2 (citing Cal. Lab. Code § 512(a); California Code of Regulations (CCR) Section 11090(11)). In addition, the petition states that ''every employer is required to 'authorize and permit' all employees to take rest periods, which insofar as practicable shall be in the middle of each work period, at the rate of ten minutes net rest time per four hours or major fraction thereof.'' *Id.* (quoting 8 CCR 11090(12)). This authorized rest period time must be ''counted as hours worked for which there shall be no deduction from wages.'' *Id.* The petition further states, ''[S]ection 226.7(b) of the California Labor Code states '[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission . . ..''' *Id.* (quoting Cal. Lab. Code § 226.7(b)).

In its petition, the ABA alleges that the California MRB Rules undermine existing Federal fatigue management rules for passenger carriers and that they conflict with driver attendance needs. Petition at 5–11. The petition also contends that it is difficult for drivers of passenger-carrying CMVs to comply with the MRB Rules due to the lack of adequate parking and due to Federal service and security requirements. *Id.* at 8–10. Lastly, the petition argues that the cost of complying with the MRB Rules creates an unreasonable burden on interstate commerce. *Id.* at 10–11.

Applicable Law

Section 31141 of title 49, United States Code, prohibits States from enforcing a law or regulation on CMV safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether a State law or regulation: (1) has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the Federal Motor Carrier Safety Regulations (FMCSRs); (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation 49 U.S.C. 31141(c)(1).

If the Secretary decides that a State law or regulation has the same effect as a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may be enforced. 49 U.S.C. 31141(c)(2). If the Secretary decides that a State law or regulation is less stringent than a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may not be enforced. *Id.* § 31141(c)(3). If the Secretary decides that a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under 49 U.S.C. 31136, the State law or regulation may be enforced unless the Secretary decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the regulation prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce. *Id.* § 31141(c)(4). In deciding whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect that the State's law or regulation and all similar laws and regulations of other States will have on interstate commerce. *Id.* § 31141(c)(5). The Secretary's authority under 49 U.S.C. 31141 is delegated to the FMCSA Administrator by 49 CFR 1.87(f).

Request for Comments

Although preemption under 49 U.S.C. 31141 is a legal determination reserved to the judgment of the Agency, FMCSA seeks comments on any issues raised in the ABA's petition or otherwise relevant. The Agency has placed the petition in the docket.

Issued on: May 3, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–09548 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0029]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from six individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2019–0029 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2019–0029), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2019–0029, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2019–0029, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The six individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

The advisory criteria states the following:

If an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the Medical Examiner in consultation with the treating physician. Before certification is considered, it is suggested that a six-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

in interstate commerce if seizure-free and off anti-seizure medication for a five-year period or more.

As a result of Medical Examiners misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified Medical Examiner based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a Notice of Final Disposition titled, Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders, (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since the January 15, 2013 notice, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in 49 CFR 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (MEP) (78 FR 3069).

III. Qualifications of Applicants

Gary Bartels

Mr. Bartels is a 64-year-old class A3 CDL holder in South Dakota. He has a history of epilepsy and has been seizure free since 1994. He takes anti-seizure medication with the dosage and frequency remaining the same since 1994. His physician states that he is supportive of Mr. Bartels receiving an exemption.

Charles E. Davenport

Mr. Davenport is a 66-year-old class D driver in Tennessee. He has a history of a single unprovoked seizure and has been seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. His physician states that he is supportive of Mr. Davenport receiving an exemption.

Alan H. Finlayson

Mr. Finlayson is a 40-year-old class D driver in Alabama. He has a history of epilepsy and has been seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since March 2011. His physician states that he is supportive of Mr. Finlayson receiving an exemption.

Gregory P. Long

Mr. Long is a 38-year-old class D driver in Connecticut. He has a history of epilepsy and has been seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same since 1995. His physician states that he is supportive of Mr. Long receiving an exemption.

John McFarland

Mr. McFarland is a 39-year-old class D driver in Virginia. He has a history of epilepsy and has been seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since 2015. His physician states that he is supportive of Mr. McFarland receiving an exemption.

Scott Schelske

Mr. Schelske is a 48-year-old class D driver in South Dakota. He has a history of a seizure disorder and has been seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since 2009. His physician states that he is supportive of Mr. Schelske receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

Issued on: April 25, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–09549 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0408]

San Francisco International Airport Ground Transportation Rules; Petition for Determination of Preemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of petition for determination of preemption; request for comments.

SUMMARY: FMCSA requests comments on a petition submitted by the American Bus Association, Inc. (ABA) and the United Motorcoach Association, Inc. (UMA) requesting a determination that certain vehicle inspection requirements for ground transportation operators imposed by the San Francisco International Airport (SFO) on passenger-carrying motor vehicles in interstate commerce are preempted by Federal law. FMCSA requests comments in response to this petition.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2018–0408 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

FOR FURTHER INFORMATION CONTACT: Tracy M. White, Enforcement and Litigation Division; FMCSA Office of Chief Counsel; Telephone: (202) 493–0349; Email: *Tracy.White@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2018–0408), indicate

the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2018–0408'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: DOT solicits comments from the public to better inform its preemption determinations. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

SUPPLEMENTARY INFORMATION:

Background

On October 18, 2018, the ABA and the UMA submitted a petition to FMCSA requesting a determination that the SFO vehicle inspection requirement is preempted by Federal law. According to the petition, the Airport Commission of the City and County of San Francisco has adopted Rules and Regulations to govern the general conduct of the public, tenants, employees, and commercial users of SFO as their activities relate to the possession, management, supervision, operation, and control of the Airport. The current Rules and Regulations became effective on January 1, 2018 and contain provisions that govern commercial ground transportation operations (Rule 4.7). The petition states that under Rule 4.7, transportation companies that pick up and drop off passengers at SFO must apply for a Ground Transportation Operating Permit and that to obtain a permit, companies must first be licensed with the California Public Utilities Commission or have been granted Operating Authority by FMCSA for out-of-state carriers. The petition states that SFO's website provides notice of a requirement that, upon application for a Ground Transportation Operating Permit and annually thereafter, ground transportation vehicles must be inspected by airport mechanics. An offsite inspection is allowed, with fees attached, for fleets of 25 or more vehicles. The petition also alleges that while the SFO website includes a ''San Francisco International Airport Vehicle Safety Inspection Checklist,'' neither the checklist nor Rule 4.7 identifies the standards used to determine whether a particular vehicle component has passed or failed the inspection, nor is there any indication as to what overall score is necessary for a commercial motorcoach to pass such an inspection.

While the petition states that all vehicles operating at SFO are required to display a transponder and permit-specific decals, the petition seeks a preemption determination concerning only the vehicle inspection requirement.

Applicable Law

Section 31141 of title 49 of the United States Code prohibits States from enforcing a law or regulation on CMV safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether a State law or regulation: (1) Has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the Federal Motor Carrier Safety Regulations (FMCSRs); (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation 49 U.S.C. 31141(c)(1).

If the Secretary decides that a State law or regulation has the same effect as a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may be enforced. 49 U.S.C. 31141(c)(2). If the Secretary decides that a State law or regulation is less stringent than a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may not be enforced. 49 U.S.C. 31141(c)(3). If the Secretary decides that a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under 49 U.S.C. 31136, the State law or regulation may be enforced unless the Secretary decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the regulation prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce. 49 U.S.C. 31141(c)(4). To determine whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect that the State's law or regulation and all similar laws and regulations of other States will have on interstate commerce. 49 U.S.C. 31141(c)(5). The Secretary's authority under 49 U.S.C. 31141 is delegated to the FMCSA Administrator pursuant to 49 CFR 1.87(f).

Request for Comments

Although preemption under 49 U.S.C. 31141 is a legal determination reserved to the judgment of the Agency, FMCSA seeks comments on any issues raised in the petition or otherwise relevant ones. The Agency has placed the petition in the docket.

Issued on: May 3, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–09546 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 12, 2019.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory

Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Wednesday, June 12, 2019, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09575 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 12, 2019.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Wednesday, June 12, 2019, 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09574 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 13, 2019.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be held Thursday, June 13, 2019, at 3:00 p.m. Eastern time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09579 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 13, 2019.

FOR FURTHER INFORMATION CONTACT: Fred Smith at 1–888–912–1227 or (202) 317–3087.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Thursday, June 13, 2019, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09576 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving

customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 11, 2019.

FOR FURTHER INFORMATION CONTACT: Conchata Holloway at 1–888–912–1227 or (336) 690–6217.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be held Tuesday, June 11, 2019, at 3:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Conchata Holloway. For more information please contact Conchata Holloway at 1–888–912–1227 or (336) 690–6217, or write TAP Office, 4905 Koger Blvd., Greensboro, NC 27407 or contact us at the website: *http://www.improveirs.org* The agenda will include various IRS issues.

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09578 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 27, 2019.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, June 27, 2019, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office, 3651 S. IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org*.

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09573 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 12, 2019.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or 202–317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, June 12, 2019, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–09577 Filed 5–8–19; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Transportation

Federal Railroad Administration

49 CFR Part 240
Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 240

[Docket No. FRA–2018–0053, Notice No. 1]

RIN 2130–AC40

Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA is proposing to revise its regulation governing the qualification and certification of locomotive engineers to make it consistent with its regulation for the qualification and certification of conductors. The proposed changes include: Amending the program submission process; handling engineer and conductor petitions for review with a single FRA review board (Operating Crew Review Board or OCRB); and revising the filing requirements for petitions to the OCRB. The proposed revisions would result in cost savings and benefits for railroads and locomotive engineers by adopting the conductor certification regulation's streamlined processes developed twenty years after the engineer certification regulation. Consistent with Executive Order 13771, the proposed rule would reduce the overall regulatory burden and the paperwork and reporting burden under the Paperwork Reduction Act of 1995 on railroads and locomotive engineers.

DATES: *Written Comments:* Written comments on the proposed rule must be received by July 8, 2019. FRA will consider comments received after that date to the extent practicable. FRA anticipates being able to determine these matters without a public hearing. However, if prior to June 10, 2019, FRA receives a request for a public hearing accompanied by a showing that the party cannot adequately present his or her position by written statement, a hearing will be scheduled and FRA will publish a supplemental document in the **Federal Register** informing interested parties of the date, time, and location of the hearing.

ADDRESSES: You may submit comments identified by the docket number FRA–2018–0053 by any one of the following methods:

- Electronically through the Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the online instructions for submitting comments;
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590;
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Fax:* 1–202–493–2251.

Instructions: All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking (2130–AC40). Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christian Holt, Railroad Safety Specialist (OP)-Operating Crew Certification, U.S. Department of Transportation, Federal Railroad Administration, Room W33–420, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–0978); or Alan H. Nagler, Senior Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, Room W31–309, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–493–6038).

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

The Secretary of Transportation (Secretary) has broad statutory authority to ''prescribe regulations and issue orders for every area of railroad safety.'' 49 U.S.C. 20103. The Rail Safety Improvement Act of 1988, Public Law 100–342, Sec. 4, 102 Stat. 624, 625–27 (June 22, 1988) (recodified at 49 U.S.C. 20135) (1988 RSIA), specifically required the Secretary to ''prescribe regulations and issue orders to establish a program requiring the licensing or certification . . . of any operator of a locomotive.'' The Secretary delegated these authorities to the Federal Railroad Administrator (Administrator). *See* 49 CFR 1.89(a). Exercising these delegated authorities, in 1991, FRA issued a certification final rule for locomotive engineers. 56 FR 28228 (codified at 49 CFR part 240).[1] Since that first final rule, FRA has amended the locomotive engineer certification requirements through six rulemakings. In 2009, FRA published the most recent final rule amending the locomotive engineer requirements. 74 FR 68173.

In 2008, over 17 years after FRA's promulgation of the engineer certification rule, Congress required the Secretary to prescribe regulations establishing a program requiring the certification of train conductors. *See* Rail Safety Improvement Act of 2008, Sec. 402, Public Law 110–432, 122 Stat. 4884 (Oct. 16, 2008) (codified at 49 U.S.C. 20163). The Secretary delegated this authority to the Federal Railroad Administrator. 49 CFR 1.89(b). To implement this statutory provision, FRA established a Railroad Safety Advisory Committee (RSAC) Conductor Certification Working Group (RSAC Working Group or Working Group) [2] to make recommendations regarding the certification of train conductors.[3] In

[1] Unless otherwise specified, all references to CFR sections and parts refer to title 49 of the CFR.

[2] The RSAC provides a forum for collaborative rulemaking and program development. RSAC includes representatives from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. For more information regarding the RSAC process and the conduct of the Working Group, *see* 76 FR 69802, 69802–69804 (Nov. 9, 2011).

[3] RSAC accepted the task (Task No. 08–07, titled ''Conductor Certification'') on December 10, 2008. This issue was thoroughly discussed and analyzed at the part 242 RSAC Working Group meetings and in the part 242 rulemaking documents. *See* 75 FR 69166, 69168 (Nov. 10, 2010).

2011, FRA published a final conductor certification rule. 76 FR 69802 (Nov. 9, 2011) (codified at 49 CFR part 242).

FRA's locomotive engineer certification regulation (Part 240) provided a starting point for discussions on what requirements could be appropriate for conductor certification and the final conductor certification regulation (Part 242) is largely organized and comparable to the locomotive engineer certification regulation. The NPRM FRA published in 2010 in the conductor certification rulemaking noted that the Working Group's accepted task statement included the discretion to ''consider any revisions to 49 CFR part 240 appropriate to conform and update the certification programs for locomotive engineers and conductors.'' 75 FR 69166, 69167 (2010). During the Working Group's meetings, some members provided feedback to FRA on whether corresponding amendments to the locomotive engineer rule were preferable. However, this feedback was not part of a consensus recommendation and, after considering the Working Group's discussions and the limited scope of this proposed rule, FRA decided not to seek RSAC recommendations on the contents of this proposed rule.

FRA believes that issues that go beyond conforming FRA's locomotive engineer regulation with FRA's conductor certification regulation and updating and clarifying the existing requirements for locomotive engineer certification are best saved for a separate, future rulemaking. Accordingly, FRA is proposing to revise its regulation governing the minimum requirements for the qualification and certification of locomotive engineers to make certain provisions consistent with its regulation for the qualification and certification of conductors and to update and clarify, as appropriate, the existing requirements of the locomotive engineer certification regulation.

President Trump issued Executive Order 13771 (E.O. 13771), ''Reducing Regulation and Controlling Regulatory Costs,'' on January 30, 2017. E.O. 13771 seeks to ''manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations'' and directs each executive department or agency to identify for elimination two existing regulations for every new regulation issued. E.O. 13771 also requires any new incremental cost associated with a new regulation, to the extent permitted by law, be at least offset by the elimination of existing costs associated with at least two prior regulations. Similarly, Executive Order 13610, ''Identifying and Reducing Regulatory Burdens,'' issued May 12, 2012, seeks ''to modernize our regulatory system and to reduce unjustified regulatory burdens and costs'' and directs each executive agency to conduct retrospective reviews of its regulatory requirements to identify potentially beneficial modifications to regulations. 77 FR 28469. Executive agencies are to ''give priority, consistent with the law, to those initiatives that will produce significant quantifiable monetary savings or significant quantifiable reductions in paperwork burdens while protecting public health, welfare, safety and our environment.'' *See id.* at 28470.

In compliance with these E.O.s, FRA expects this rulemaking will reduce the railroad industry's overall regulatory, paperwork, and cost burden without affecting safety on the nation's railroad system and, at the same time, benefit individual locomotive engineers. FRA also expects the proposals in this NPRM, if implemented, to generate savings in governmental administrative costs by reducing FRA's Part 240 program's reliance on paper documents and conforming its review processes under Part 240 as much as possible to those under Part 242. FRA believes consistency in the processes, procedures and criteria between Part 240 and Part 242 will not only lead to an overall reduction in the regulatory, paperwork and cost burden on the railroad industry, but also benefit individual locomotive engineers by making the processes, procedures and requirements of the two certification systems consistent to the extent possible. Over a 20-year period, FRA estimates $11.6 million in total cost savings would accrue—a present, discounted value of $6.1 million (7% discount).

II. Section-by-Section Analysis

Section 240.1 Purpose and Scope

FRA proposes to amend paragraph (c) of this section to conform it to paragraph (c) of § 242.1. However, the intent of the paragraph remains the same—*i.e.,* even though a person may have a job classification title other than ''locomotive engineer,'' the locomotive engineer certification requirements of this rule apply to that person if he or she meets the definition of locomotive engineer.

Section 240.3 Application and Responsibility for Compliance

FRA proposes to amend § 240.3 to clarify FRA's jurisdiction and conform to § 242.3. Section 242.3 provides that Part 242 applies to all railroads except: (1) ''plant railroads''; (2) tourist, scenic, historic or excursion operations that are not part of the general railroad system of transportation; and (3) rapid transit operations in an urban area that are not connected to the general railroad system of transportation. As proposed, § 240.3 provides that Part 240 applies to all railroads with the same three exceptions.

The first exception applies to ''plant railroads.'' Plant railroads operate only on track inside installations (*see* proposed definition in § 240.7). Plant railroads' operations do not go beyond the plants' boundaries and do not involve the switching of rail cars for entities other than themselves.

The second exception applies to ''tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation'' (as defined in § 240.7). In § 240.7, FRA proposes to define these operations as ''a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.,* there is no freight, intercity passenger, or commuter passenger railroad operation on the track).'' This definition is the same as the definition of the term in Part 242. Moreover, excluding these types of railroads from Part 240 is consistent with FRA's jurisdictional policy that already excludes these operations from all but a limited number of Federal railroad safety requirements.

The third exception covers rapid transit operations in an urban area that are not connected to the general system. FRA notes that some rapid transit operations, given their connections to the general system, are within FRA's jurisdiction and FRA specifically intends Part 240 to apply to those operations, as it always has. FRA does not intend for this proposed rule to have any effect on FRA's jurisdiction. A more detailed analysis of the applicability of Part 240 is in the preamble discussions of 49 CFR 240.3 in 64 FR 60966, 60974 (Nov. 8, 1999), 63 FR 50626, 50636–50637 (Sept. 22, 1998), and 56 FR 28228, 28240 (June 19, 1991).

Section 240.5 Effect and Construction

FRA proposes to amend this section to conform it to 49 CFR 242.5 and, in the process, update the section with respect to issues of preemption and ''flowback.'' Proposed paragraphs (a), (b), and (d) are the same as the language currently in paragraphs (c), (d), and (f), respectively. FRA proposes to remove existing paragraphs (a) and (b), which address the preemption of State law. A member of the RSAC Working Group recommended FRA not remove existing

paragraph (a) to prevent any ambiguity that Federal preemption of State and local laws remains firmly in place. However, FRA believes these paragraphs are unnecessary because 49 U.S.C. 20106 and other Federal railroad safety statutes sufficiently address the preemptive effect of FRA's regulations. Maintaining a separate Federal regulatory provision concerning the regulation's preemptive effect is duplicative and unnecessary.[4] FRA notes that Part 242 does not contain any language comparable to the language in existing paragraphs (a) and (b) of this section. Because FRA is proposing removal of the preemption provisions, FRA proposes to remove the word ''preemptive'' from the title of this section and make the title the same as § 242.5.

New proposed paragraph (c) of this section addresses the issue of ''flowback'' and mirrors paragraph (c) of § 242.5. Industry uses the term flowback to describe a situation where an employee leaves his or her current position to return to a previously held position or craft. An example of flowback occurs when a person who holds a conductor position subsequently qualifies for a locomotive engineer position, and at some later point in time the person seeks to revert back to a conductor position. An individual's reasons for reverting back to a previous position or craft may be a personal choice or the result of circumstances beyond the individual's control (*e.g.,* downsizing).

Many collective bargaining agreements address the issue of flowback and, generally, FRA does not intend to create or prohibit any individual's right to flowback or take a position on whether flowback is desirable. Paragraph (c) of this section, however, must be read in conjunction with proposed § 240.308, which limits flowback in certain situations. Therefore, as described in the section-by-section analysis for § 240.308 below, a person who holds both a conductor and locomotive engineer certificate, and who has had his or her locomotive engineer certificate revoked for certain violations, could not work as a conductor during the period of revocation. In addition, a person who holds both a conductor and locomotive engineer certificate, and who has had his or her conductor certification revoked for certain violations, could not work as a locomotive engineer during the period of revocation.

Section 240.7 Definitions

FRA proposes to amend this section by: (1) Adding definitions for ''conductor,'' ''drug and alcohol counselor,'' ''ineligible or ineligibility,'' ''on-the-job training (OJT),'' ''physical characteristics,'' ''plant railroad,'' ''remote control operator,'' ''Substance Abuse Professional,'' ''territorial qualifications,'' and ''tourist, scenic, historic, or excursion operations that are not part of the general system of transportation''; (2) revising the definitions of ''file, filed and filing,'' ''FRA Representative,'' ''instructor engineer,'' ''main track,'' ''medical examiner,'' ''qualified,'' ''railroad rolling stock,'' and ''substance abuse disorder''; (3) removing the definitions for ''EAP Counselor'' and ''newly hired employee''; and (4) replacing the defined term ''service'' with the term ''serve or service.'' These proposed amendments will make the definitions in Part 240 consistent with the definitions in Part 242.

Conductor

This rule proposes to adopt the definition of ''conductor'' used in Part 242. Part 242 defines the term ''conductor'' as ''the crewmember in charge of a 'train or yard crew' as defined in part 218 of this chapter.'' Title 49 CFR part 218 (Part 218) defines ''train or yard crew'' as one or more railroad employees assigned a controlling locomotive, under the charge and control of one crew member; called to perform service covered by Section 2 of the (former) Hours of Service Act; involved with the train or yard movement of railroad rolling equipment they are to work with as an operating crew; reporting and working together as a unit that remains in close contact if more than one employee; and subject to the railroad operating rules and program of operational tests and inspections required in §§ 217.9 and 217.11 of 49 CFR chapter II.

FRA's proposal to adopt the same definition of ''conductor'' as Part 242 (referring to a single ''crewmember'') means, under Part 240, only one person can be in charge of a train or yard crew and that person is the conductor. In some circumstances, a locomotive engineer, including a remote control operator (RCO), must be certified as both a locomotive engineer under Part 240 and as a conductor under Part 242. *See* 49 CFR 242.213(d). *See also* proposed § 240.308. All other train or yard crew members (*e.g.,* assistant conductors, brakemen, hostlers, trainmen, switchmen, utility persons, flagmen, yard helpers, and others who might have different job titles, but perform similar duties and are not in charge of a train or yard crew) are not ''conductors'' for purposes of this proposed rule.

Drug and Alcohol Counselor (DAC)

FRA proposes to adopt the definition of ''drug and alcohol counselor'' used in Part 242. Part 242 defines the term to mean a person who meets the credentialing and qualification requirements of a ''Substance Abuse Professional'' (SAP) under part 40. Defining the term this way will avoid interfering with terms used in parts 40 and 219. *See* Section-by-Section Analysis for ''Substance Abuse Professional.''

EAP Counselor

FRA proposes to remove the definition for EAP Counselor (EAP) and replace that term throughout Part 240 with either a SAP or DAC. This proposed change will not only make Part 240's handling of substance abuse issues the same as Part 242, but also should improve employee confidence in the substance abuse evaluation process. *See* Section-by-Section Analysis for ''Substance abuse disorder'' and ''Substance Abuse Professional.'' A member of the RSAC Working Group suggested railroads should be permitted to use EAPs interchangeably with SAPs and DACs because small railroads cannot afford full-time employees with DAC/SAP credentials. The RSAC Working Group thoroughly discussed and analyzed this issue and the issue is discussed in the Part 242 rulemaking (*see* 75 FR 69166, 69171 (Nov. 10, 2010); 76 FR 69802, 69816–69817 (Nov. 9, 2011)). Because replacing EAPs with SAPs and DACs in Part 242 received unanimous consensus from the RSAC Working Group and the full RSAC accepted the proposal in developing Part 242, FRA declines to propose this RSAC Working Group member's alternative approach in Part 240.

File, Filed, and Filing

FRA proposes to remove the ''on or after September 4, 2001'' language from the existing definition of ''file, filed, and filing'' because the date is obsolete. To conform the definition to the same term in Part 242, FRA also proposes to add ''DOT'' to the term ''Docket Clerk'' and a reference to ''FRA'' to acknowledge that, under this proposed rule, documents will either be filed with the DOT Docket Clerk or, in the case of proposed § 240.103, with FRA.

[4] This issue was thoroughly discussed and analyzed at the Part 242 RSAC Working Group meetings and in the Part 242 rulemaking documents. *See* 75 FR 69166, 69168 (Nov. 10, 2010).

A member of the RSAC Working Group suggested FRA add the following sentence to the definition of ''file, filed, filing'': ''In the application of Section 240.103, a document is not considered properly filed unless it is simultaneously served upon the president of each labor organization that represents the railroad's employees subject to this part.'' FRA is not proposing to adopt this suggestion because FRA is proposing to revise § 240.103 to require railroads to serve copies of their locomotive engineer programs on the president of each labor organization that represents each railroad's employees subject to Part 240. Thus, adopting this suggestion would duplicate the proposed requirement in § 240.103.

FRA Representative

FRA proposes to revise this definition to conform to the definition of ''FRA Representative'' in Part 242 and update the title of the Associate Administrator referenced in that definition.

Ineligible or Ineligibility

FRA proposes to add the same definition of this term as the definition of ''ineligible or ineligibility'' in Part 242 and to describe some instances when a person may not serve as a locomotive engineer. The proposed term ''ineligible or ineligibility'' means that a person is legally disqualified from serving as a certified locomotive engineer. The term is broadly defined to cover a number of circumstances when a person may not serve as a certified locomotive engineer. Revocation of certification under § 240.307 and denial of certification under § 240.219 are two examples when a person would be ineligible to serve as a certified locomotive engineer. A period of ineligibility may end when a condition or conditions are met. For example, a period of ineligibility may end when a person meets the conditions to serve as a certified locomotive engineer following an alcohol or drug violation under § 240.119.

FRA's original suggested text presented to the RSAC Working Group defined ''ineligible or ineligibility'' to be when a person is legally disqualified from serving as a ''locomotive engineer.'' A member of the RSAC Working Group suggested FRA insert ''certified'' before ''locomotive engineer'' each place ''locomotive engineer'' appears in the definition because there might be circumstances where a person performs duties a railroad designates to be performed by an ''engineer,'' but the duties do not require a ''certified'' engineer under Part 240. Because we propose to use the same definition of ''ineligible or ineligibility'' in Part 240 as Part 242, and Part 242 contains the term ''certified,'' FRA is adopting this suggestion in this proposed rule.

Other members of the RSAC Working Group suggested that the term ''suspension'' should be inserted into the definition as another example of when a person would be ineligible to serve as a locomotive engineer. Part 242 does not define ''ineligible or ineligibility'' to include ''suspension'' and FRA declines to include it in this proposed rule. Consistent with the definition of the term ''ineligible or ineligibility'' in Part 242, the proposed definition of ''ineligible or ineligibility'' in this rule means that a person is ''legally disqualified from serving'' as a certified locomotive engineer for any railroad. A suspension by one railroad, however, does not create a legal disqualification by all other U.S. railroads that may have certified the individual. The disqualification is legally binding when a person's certification is denied or revoked.

Instructor Engineer

FRA proposes to revise the definition of ''instructor engineer'' to make it as similar as possible to the definition of ''qualified instructor'' in Part 242. The existing Part 240 definition does not include a role for ''designated employee representatives'' as the corresponding provision in Part 242 does. Thus, consistent with Part 242's definition of ''qualified instructor'' FRA proposes to amend the definition of ''instructor engineer'' in Part 240 to: (1) Establish a role for employee representative participation; and (2) establish methods for identifying instructors through railroad and employee representative coordination, as well as by the railroad unilaterally. The slight differences FRA proposes to leave between the definitions are necessary to recognize that engineers operate trains and conductors do not.

In both Parts 240 and 242, the designation of a certified person as an instructor recognizes that the person chosen can instruct other similarly certified persons. Not every certified person is viewed as automatically having ''the necessary operating experience to effectively instruct in the field.'' An instructor is typically not a railroad officer or supervisor, but instead a person with current, relevant experience who can be counted on to impart knowledge and demonstrate safety-related tasks through on-the-job (OJT) training. Senior certified people are often chosen as instructors, although some senior people may not be good at teaching others and some certified people who are not considered senior may be excellent teachers.

Under the proposed requirements, a designated railroad officer and a designated employee representative may agree that a particular certified engineer should be an instructor engineer because the person is recognized as having the knowledge, skill, and ability ''to teach others proper train handling procedures.'' Because it is unnecessary for conductors to understand proper train handling procedures, Part 242 does not include such a requirement when a railroad and employee representative select an instructor. However, FRA believes that when a railroad and employee representative select an instructor engineer, the paramount concern is whether the person can teach proper train handling procedures and therefore FRA proposes to retain that language in the Part 240 instructor definition.

If the railroad and designated employee representative cannot agree on the selection of a person as an instructor, Part 242 establishes that the railroad can unilaterally select the person as long as the person ''has a minimum of 12 months service working as a train service employee.'' This Part 242 concept is carried over in the proposed Part 240 definition with the exception that the phrase ''as a train service employee'' is replaced with ''in the class of service for which the person is designated to instruct.'' The difference between the two regulatory provisions recognizes the uniqueness of the locomotive engineer position, as compared to other train service employee positions. Only locomotive engineers operate locomotives or trains, while other train service employees line switches for trains, help locomotive engineers make shoving or pushing movements safely, and help trouble shoot mechanical or brake failures. Thus, a conductor with 12 months of service working as a train service employee may have enough experience to instruct conductor candidates. Meanwhile, because of the different classes of locomotive engineer service, FRA proposes a minimum service requirement in the class of service for which a person is designated to instruct. Consequently, because a locomotive servicing engineer is not permitted to move a locomotive or group of locomotives with cars attached, a person who is a certified locomotive servicing engineer for 12 months or more would potentially be qualified to instruct candidates for locomotive servicing engineer certification, but not

candidates for train service engineer service certification if cars would be attached to the movement.

The final Part 242 provision FRA is proposing as a requirement for Part 240 instructor engineers addresses the question of what a railroad may do when employees do not have designated employee representation. Under that scenario, a railroad may designate any certified locomotive engineer as an instructor engineer if the person has demonstrated the necessary qualifications under the railroad's written certification program. This provision is the same as the Part 242 provision, except that the Part 242 provision refers to conductors. This provision gives the maximum flexibility to short line railroads and other railroads where employees do not have designated representatives.

A member of the RSAC Working Group recommended FRA remove the requirement to have 12 months of experience from Part 242 and not propose it for Part 240. The member asserted the reduced locomotive engineer population in small railroads will make it impractical if not impossible for all instructor engineers to have this level of experience. FRA notes that as proposed, not all instructor engineers will be required to have a minimum of 12 months of experience in the class of service for which the person is designated to instruct. If a railroad does not have designated employee representation, or if the designated employee representative concurs with the instructor selection, then the proposed 12 months of experience requirement is not applicable. Accordingly, FRA declines to adopt the recommendation.

Other RSAC Working Group members suggested that a Part 240 proposed rule should define what constitutes a month, and that one tour of duty in a calendar month should not count as a month. No such limitation is included in Part 242. FRA believes it is in a railroad's best interests to designate instructors who have experience and have demonstrated they can effectively teach others. The proposed definition of ''instructor engineer'' includes the requirement that a railroad's program must contain the criteria the railroad will use to determine who may be an instructor. As such, FRA declines to include a requirement in this proposed rule defining what constitutes a month of experience because there appears to be sufficient safeguards to prevent a railroad from designating instructors with subpar qualifications.

During the RSAC Working Group meetings, FRA suggested using the term ''train service engineer'' in the definition of ''instructor engineer'' (*i.e.,* FRA's suggested text would have required a person to have a minimum of 12 months of service working as a ''train service engineer''). A member of the RSAC Working Group questioned this suggestion by asking FRA to clarify whether the purpose of this restriction would restrict RCOs and hostlers from participating as instructor engineers in the training of other RCOs and hostlers.

After careful consideration of this RSAC Working Group member's response, FRA realized that the suggestion had an unintended consequence. Part 240's current definition of ''instructor engineer'' does not restrict instructor engineers to only those people who are in the train service engineer class and FRA does not intend to introduce such a limitation in this proposed rule. Rather, FRA intends to permit a train service engineer or, where appropriate, a locomotive servicing engineer (as described in § 240.107) or RCO to serve as an ''instructor engineer'' within the parameters of that person's class. Accordingly, as noted above, FRA proposes that in situations where concurrence is needed between the railroad and the designated employee representative in selecting an instructor engineer, and concurrence is not reached, the person selected must have a minimum of 12 months of service working in ''the class of service for which the person is designated to instruct.'' For example, a person who had not received concurrence could not serve as an instructor engineer regarding the handling of a locomotive coupled to cars unless that person had a minimum of 12 months of service working as a train service engineer (as described in § 240.107).

Given this background, consistent with Part 240's existing definition of ''instructor engineer,'' as proposed, RCOs and hostlers could be instructor engineers conducting training of other RCOs and hostlers. To be clear, under both the existing requirements and this proposed rule, any certificate can be restricted, and an instructor can be limited to instructing based on the class of service and the restriction. Presumably, an instructor engineer for RCOs or hostlers may be designated and certified as a train service engineer or locomotive servicing engineer but potentially limited to instructing only in the certain types of work for which the person is qualified. Thus, a person designated as an instructor engineer for RCOs may hold a certification that identifies him or her as a train service engineer restricted to RCO work. Other instructor engineers for RCOs may be designated as train service engineers with no restrictions. Similarly, instructor engineers for hostlers may be designated as train service engineers or locomotive servicing engineers with no restrictions, or train service engineers or locomotive servicing engineers restricted to yard or yard-type work. Of course, consistent with existing Part 240, under this proposed rule, a person may not serve as an ''instructor engineer'' if the person fails to meet the requirements of an ''instructor engineer'' described in that definition in § 240.7.

Main Track

FRA proposes to revise the definition of ''main track'' to be the same as the definition of ''main track'' in Part 242 by including a reference to positive train control as a method of operation that would make a track a ''main track.''

Medical Examiner

FRA proposes to revise the definition of ''medical examiner'' to be the same as the definition of ''medical examiner'' in Part 242 by removing the portion of the existing definition stating that the medical examiner owes ''a duty to the railroad.'' Instead, consistent with Part 242, the proposed definition says ''the medical examiner owes a duty to make an honest and fully informed evaluation of the condition of an employee.''

Newly Hired Employee

FRA proposes to delete the definition of ''newly hired employee'' because that term is not used in Part 240.

On-the-Job Training (OJT)

The term ''on-the-job training'' means job training that occurs in the workplace, *i.e.,* the employee learns the job while doing the job. In § 243.5 of this chapter, OJT is described as a type of ''formal training'' that has a structured and defined curriculum, and that provides an opportunity for training participants to have questions timely answered during the training or at a later date. In appendix B to this part (Appendix B), FRA mentions OJT as one type of training that a railroad may describe in its locomotive engineer certification program.

Operator Control Unit (OCU)

FRA proposes to add a definition of OCU to Part 240 that is the same as that used in part 229 of this chapter. FRA proposes to add this definition so the proposed RCO class of service in § 240.107 can be precisely explained using the same terms FRA uses in describing the equipment safety standards required for remote control

locomotives in § 229.15 of this chapter. The conductor certification rule does not contain a definition of OCU because, for purposes of that rule, an RCO is a certified locomotive engineer.

Physical Characteristics

The term ''physical characteristics'' is used throughout existing Part 240, but is not defined. Accordingly, FRA proposes to add the same definition for the term used in Part 242. As proposed, ''physical characteristics'' would mean the actual track profile of and physical location for points within a specific yard or route that affect the movement of a locomotive or train, and include both main track physical characteristics and other than main track physical characteristics.

Plant Railroad

FRA proposes adding a definition of ''plant railroad'' in this proposed rule to be the same as the definition of ''plant railroad'' in Part 242 and clarify the applicability of Part 240 as described in § 240.3. The definition is consistent with FRA's longstanding policy of not exercising its jurisdiction over a plant railroad that does not operate on the general system of railroad transportation and does not move cars for other entities. *See* 49 CFR part 209, app. A.

Qualified

FRA proposes to revise the definition of ''qualified'' to be the same as the definition of ''qualified'' in Part 242 and to ensure the completeness of a railroad's instruction and training program. The current definition in Part 240 focuses on an individual's knowledge whereas the proposed definition in this rule focuses not only on the individual's knowledge but also on whether the individual could reasonably be expected to be proficient at performing all assigned tasks. The update to the definition of ''qualified'' is to ensure a railroad's instruction and training program not only provides knowledge of how to perform a task but also adequately prepares an individual to be able to proficiently perform the task. For example, a qualified locomotive engineer would need to be taught the railroad's rules and procedures for performing different types of brake tests. An individual who receives classroom training only would be expected to have the requisite knowledge to perform the brake tests, and an individual who is provided OJT or hands-on training would be expected to be able to proficiently perform the tasks required that make up the brake test requirements. Without both knowledge and hands-on practice, the person could not be expected to be qualified to perform brake tests. Some members of the RSAC Working Group suggested an alternative definition of ''qualified'' emphasizing that the employer's requirements must be ''identified in the plan submitted in accordance with'' Part 240. FRA understands the RSAC Working Group members who made this suggestion were concerned that an employer might have qualification requirements outside of a railroad's locomotive engineer certification plan submitted to FRA. Part 242 does not address this issue and FRA declines to propose such a provision in Part 240. FRA does, however, encourage interested parties to comment on the proposed definition of ''qualified.''

Railroad Rolling Stock

FRA proposes to revise the definition of ''railroad rolling stock'' to be the same as the definition of the term in Part 242 (*i.e.,* on-track equipment that is either a ''railroad freight car'' (as defined in § 215.5) or a ''passenger car'' (as defined in § 238.5)). This proposed definition is the same as the current definition of ''railroad rolling stock'' in Part 240 except for adding the word ''railroad'' in front of ''freight car'' to mirror the definition in § 215.5.

Remote Control Locomotive (RCL)

FRA proposes to add a definition of RCL to Part 240 that is the same as the definition in § 229.5. FRA is proposing to include this definition in Part 240 so the proposed RCO class of service in § 240.107 can be precisely explained using the same terms FRA uses in describing the equipment safety standards required for an RCL in § 229.15. As proposed, with the use of a radio link, an individual does not have to be physically within the confines of an RCL's cab to operate the RCL. By definition, the term RCL does not refer to a locomotive or group of locomotives remotely controlled from the lead locomotive of a train, as in a distributed power arrangement.

Serve or Service

FRA proposes to replace the definition of ''service'' with a definition of ''serve or service.'' By replacing the definition, the terminology and definition will be the same as in Part 242. Service is a legal term and is given specific meaning in the Federal Rules of Civil Procedure, which explains why FRA references it. One party serves another party with a document, thereby performing a legal obligation to notify the other party. The act of serving a party with a document is the act of performing service. The words are used interchangeably in the regulation, but FRA is making the change as it may help some readers better understand that serve and service have the same meaning. For example, in proposed § 240.307(c)(11)(iii), FRA proposes that a railroad issuing a decision must serve that decision on the employee and the employee's representative, if any, as well as a requirement for the railroad to retain proof of that service.

Substance Abuse Disorder

FRA proposes to revise the definition of ''substance abuse disorder'' to be the same as the definition of the term in Part 242. Under this definition, a substance abuse disorder is ''active'' if the person: (1) Is currently using alcohol or other drugs, except under medical supervision consistent with § 219.103; or (2) has failed to successfully complete primary treatment or successfully participate in aftercare as directed by a SAP or DAC. This definition varies from the existing definition in Part 240 in two respects. First, Part 240's existing definition refers to an ''EAP Counselor'' rather than a SAP or DAC. SAPs and DACs may be better qualified to direct an individual's treatment or aftercare because they have more stringent credential, knowledge, training, and continuing education requirements relating to substance abuse than EAPs. Second, existing Part 240 also uses the phrase ''is currently using alcohol and other drugs'' to describe active substance abuse disorders. As proposed, this definition would revise that phrase to read ''is currently using alcohol or other drugs'' to clarify that an individual with an active substance abuse disorder could be using alcohol *or* other drugs. Additional discussion of this definition is found in the preamble to the conductor certification final rule. 76 FR at 69817.

Substance Abuse Professional (SAP)

FRA proposes to add the same definition of the term ''substance abuse professional'' as in Part 242. As proposed, ''substance abuse professional'' is defined to mean ''a person who meets the qualifications of a substance abuse professional, as provided in part 40 of this title.'' Part 40 defines a SAP as ''[a] person who evaluates employees who have violated a DOT drug and alcohol regulation, and makes recommendations concerning education, treatment, follow-up testing and aftercare.'' *See* 49 CFR 40.3.

By definition, a SAP may evaluate and treat only an employee who has committed a violation of FRA's alcohol and drug regulation (Part 219), such as

the prohibitions in §§ 219.101 and 219.102. An employee who may have a substance or alcohol abuse problem but has not violated Part 219 is therefore not eligible for SAP referral. Accordingly, FRA proposes to use the term SAP in § 240.119(d), which addresses the follow-up that must occur after a Part 219 violation. However, because off-duty driving of a motor vehicle under the influence (DUI) is not a Part 219 violation, the follow-up required by § 240.115 for a DUI conviction may not be completed by a SAP. Therefore, for those sections of Part 240 that address drug and alcohol evaluation requirements not involving a Federal violation, FRA is proposing to replace the term SAP with the term DAC. As used in this proposed rule, a DAC will have to meet the same qualifications as a SAP. FRA believes these changes will avoid interfering with Parts 40 and 219 while requiring higher qualification and credentialing requirements for persons evaluating substance abuse disorders.

Territorial Qualifications

FRA proposes to add to Part 240 the same definition for the term ''territorial qualifications'' as in Part 242. As proposed, ''territorial qualifications'' means ''possessing the necessary knowledge concerning a railroad's operating rules and timetable special instructions including familiarity with applicable main track and other than main track physical characteristics of the territory over which the locomotive or train movement will occur.''

Although not currently defined in Part 240, the term is derived from Part 240's requirement that, with certain exceptions, a locomotive engineer may not operate a locomotive over a territory unless the engineer is ''qualified on the physical characteristics of the territory.'' *See* § 240.231. The proposed definition would clarify what ''territorial qualifications'' means in proposed revisions to §§ 240.125, 240.221, and 240.309.

Tourist, Scenic, Historic, or Excursion Operations That Are Not Part of the General Railroad System of Transportation

FRA proposes to add to Part 240 the same definition for the phrase ''tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation'' as in Part 242. As proposed, the phrase means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.,* there is no freight, intercity passenger, or commuter passenger railroad operation on the track). If there is any freight, intercity passenger, or commuter passenger railroad operation on the track, the track would be considered part of the general system. *See* part 209, app. A. *See* the Section-by-Section analysis of § 240.1 for further discussion of the applicability of Part 240 to these types of railroad operations.

Section 240.11 Penalties and Consequences for Noncompliance

FRA proposes a minor amendment to paragraph (d) of this section. FRA proposes to revise the words ''Federal Railroad Safety Act'' (FRSA) in that paragraph to read ''Federal rail safety laws'' to more accurately describe the source of FRA's authority since the recodification of the laws comprising the former FRSA. *See* Public Law 103–272, 108 Stat. 745 (July 5, 1994). This revision would also make the paragraph the same as § 242.11(d).

Section 240.103 Approval of Design of Individual Railroad Programs by FRA

FRA proposes two amendments to this section, which will make the filing and FRA approval process for individual railroads' Part 240 programs the same as for conductor certification programs under § 242.103. Specifically, FRA proposes revising paragraphs (b) and (c) of this section to require railroads to serve a copy of their program submissions, resubmissions, and material modifications on the president of each labor organization that represents the railroad's certified locomotive engineers. It also would allow any designated representative of certified locomotive engineers to submit comments to FRA on the railroad's submission within 45 days of the railroad's filing with FRA. Although FRA, not the commenters, will decide whether to approve a railroad's submission, FRA expects comments will be useful in determining whether the railroad's program conforms to the criteria in this proposed rule. These proposed changes would be in newly added paragraphs (b) and (c). Consequently, FRA proposes redesignating existing paragraphs (b) through (e) as paragraphs (d) through (g), to make the language of these paragraphs consistent with § 242.103(e)-(h). Also, FRA is proposing to redesignate existing paragraph (c)(2) as paragraph (e)(2) and then revise that paragraph to be the same as § 242.103(g)(2), indicating that a deficient program may remain in effect for a specified period of time ''so long as the railroad has complied with the requirements'' for resubmission found in another paragraph of this section.

In proposed paragraph (h) (which revises existing paragraph (e) and is the same as paragraph (i) of § 242.103), FRA would require a railroad intending to materially modify its FRA-approved program to submit to FRA a description of its intended material modification 60 days before implementing the modification (as opposed to the current requirement to do so 30 days in advance). This proposed revision would allow time for the labor organizations to comment on the proposed modification(s) under proposed paragraph (c) of this section and for FRA to consider any comments from the relevant labor organizations.

In developing this NPRM, FRA considered proposing to require railroads to file their complete Part 240 programs (including any modifications made as a result of this rule) with FRA and serve those complete programs on the president of each labor organization that represents the railroad's certified locomotive engineers. Although the proposed requirement to serve programs would be new to Part 240, FRA considered that Part 240 was effective in 1991 and it would be expected that each president of a relevant labor organization that wanted a copy of a railroad's locomotive engineer certification program would have obtained it by now. FRA thus views the proposed conforming amendment as requiring a railroad to serve material modifications or wholly new programs on the president of each labor organization that represents the railroad's certified locomotive engineers but not a program that is revised due to promulgation of this rule. FRA requests comment on the potential adoption of such a requirement in a final rule.

Section 240.105 Criteria for Selection of Designated Supervisors of Locomotive Engineers

This existing section requires each railroad to designate certain supervisors qualified to test and evaluate the knowledge and skills of locomotive engineers. FRA proposes to add new paragraph (d) to address that some designated supervisors of locomotive engineers (DSLEs) may not be train service engineers. Those that are locomotive servicing engineers or remote control operators may still be DSLEs, but the range of their supervision would be limited by the railroad to the person's actual qualifications. Although the existing rule does not prohibit a railroad from creating a DSLE subset known as Designated Supervisor of Remote Control Operators (DSRCOs), and many have done just that, the addition of

proposed paragraph (d) recognizes that each railroad is authorized to make such designations that apply additional conditions or operational restrictions on the service that a DSLE may perform just as each railroad may apply conditions and restrictions on any person's certificate. Because Part 242 does not differentiate among different classes of service for conductors, there is no comparable provision to proposed paragraph (d) in Part 242. FRA intends proposed paragraph (d) to help railroads effectively differentiate among the potential different DSLE classes of service contemplated by Part 240.

Section 240.107 Types of Service

FRA is proposing several changes to this section, including a change to the heading of this section. The current section heading is ''Criteria for designation of classes of service,'' and the proposed change would make it the same as the section heading in its Part 242 counterpart.

In existing paragraph (a), each railroad is required to state in its program which of the three classes of service named in paragraph (b) it will cover (*i.e.,* train service engineers, locomotive servicing engineers, and student engineers). FRA proposes to add two additional classes of service to paragraph (b) (*i.e.,* remote control operators and student remote control operators). Thus, FRA proposes to revise paragraph (a) to remove the specific reference to ''three'' because paragraph (b) would now list five classes of service. However, those railroads that already name remote control operators as a class of service in a Part 240 program or do not conduct remote control operations would not need to make any change to their programs as a result.

Existing paragraph (c) requires railroads to apply certain operational constraints to each class of service. The proposed changes to paragraph (c) are intended to add operational constraints for the two new classes of service. In paragraph (c)(3), FRA proposes to add operational constraints to the proposed RCO class of service. This new class of service recognizes that many railroads now employ and train individuals who have never operated conventional locomotives, but are instead restricted to operations using an RCL controlled solely by an OCU. Currently, many railroads use RCLs for switching movements or low-speed operations on main track as § 229.15(a)(14) limits this equipment to a maximum speed of 15 mph. An individual certified as a ''train service engineer'' under § 240.107(c)(1) may operate any type of locomotive, whether conventionally operated from the control stand in the locomotive cab or remotely controlled, and with or without cars or other locomotives coupled to the controlled locomotive. An individual certified as a ''locomotive servicing engineer'' under § 240.107(c)(2) may operate any type of locomotive, whether conventionally operated from the control stand in the locomotive cab or remotely controlled, with other locomotives coupled to the controlled locomotive but not with cars coupled to the movement. An RCO is distinguishable from these other classes of service because an RCO is limited to operating only remotely controlled locomotives by using the OCU. The industry currently recognizes that an RCO's service is limited by the type of locomotive and controls used. The changes proposed in paragraph (c)(3) catch up to this industry practice.

Existing paragraph (c)(3), which address student engineers, would be redesignated as paragraph (c)(4) with the addition of student RCOs. As proposed, paragraph (c)(4) provides that any student, operating any locomotive, whether conventionally operated from the control stand in the locomotive or from an OCU, is operationally constrained because each student may operate only under the direct and immediate supervision of an instructor engineer. FRA recognizes that in order to learn some RCO duties, an instructor engineer may be separated from the student RCO by a significant physical distance; under those circumstances, the instructor engineer would be required to have some override feature or ability to stop the student's remotely controlled locomotive or train movement. However, in each case, the instructor must observe the student's actions to properly monitor the student's activities. This supervision requirement could not be accomplished if, while riding the point on an RCO move, the student RCO was on one side of the car and the instructor was on the other side. If both the student RCO and instructor were riding the same side of the car (on each end) and the instructor has the ability to stop the move, this would meet the intent of the regulation.

The existing rule requires, at a minimum, a student certification for any person operating a locomotive in any capacity, and the type of student certification may further limit the person's authority to operate equipment. For example, an individual who is a student locomotive serving engineer would be prohibited from operating with a locomotive coupled to cars—even if operating under the direct and immediate supervision of a qualified instructor engineer. Similarly, as proposed, a student RCO is operationally constrained from operating a conventional, *i.e.,* a non-remotely controlled locomotive, even if the student RCO is under the direct and immediate supervision of an instructor engineer.

Section 240.111 Individual's Duty To Furnish Data on Prior Safety Conduct as Motor Vehicle Operator

Existing § 240.111 requires persons subject to Part 240 to make information on his or her motor vehicle driving record available to any railroad considering the individual for certification or recertification under Part 240, unless the person reports to the railroad that he or she has never obtained a motor vehicle driver's license. Because obtaining a motor vehicle driver's license is not a precondition for obtaining locomotive engineer certification, an individual who reports that fact to a railroad is not required under Part 240 to request the non-existent driving history.

FRA proposes a change to paragraph (a)(2) that would add the words ''or foreign law'' to clarify that the reference to ''State or Federal law'' is not limited to driver licenses issued within the United States. An individual's duty under this section extends to providing any necessary consent under foreign law to obtain information from foreign countries that issued the person a motor vehicle driver's license. This proposed change to paragraph (a)(2) would make the requirement the same as the corresponding requirement in § 242.111(g)(2). Similarly, the proposed changes to paragraphs (c)(1) and (2) would make the paragraphs the same as § 242.111(i)(1) and (2) so that the same requirements would apply to both engineers and conductors to request driver's license information, whether issued in the United States or by a foreign country.

One difference between the locomotive engineer and conductor certification requirements that this proposed rule does not address is that those seeking locomotive engineer certification must request motor vehicle information from the National Driver Register (NDR), even though the NDR statute and regulation (*see* 49 U.S.C. chapter 303 and 23 CFR 1327) prohibit railroads from requesting NDR information from individuals seeking employment as certified conductors. In 1991, States were not required to provide information to NDR and there only were a limited number of State licensing agencies that had the capacity to make a direct NDR inquiry. Today,

however, each State and the District of Columbia are required to send information on all revocations, suspensions, and license denials within 31 days of receipt of the convictions from the courts to the NDR and each of these driver licensing agencies has the capability to provide NDR's data. 49 U.S.C. 30304. With that understanding, proposed changes to paragraphs (d) and (e) remove an outdated reference to a list of driver licensing agencies that used to reside in appendix D, and the proposed substitution clarifies that each State and the District of Columbia are able to perform a check of the NDR. As NDR explains, ''[t]he entire driver history record for a licensed driver is maintained at the State level.'' [5] Thus, under paragraph (d), there is no need to request information directly from NDR if a State or the District of Columbia issued the person a driver's license and a request is sent directly to the motor vehicle license agency that issued the license. Under paragraph (e), an individual issued a driver's license by one of the driver licensing agencies of a State or the District of Columbia shall request that the NDR information be added to the request.

Again, because Part 240 requires NDR record checks and Part 242 does not, changes are proposed for paragraph (f) that are similar, but not identical to § 242.111(j). These paragraphs address how a railroad must potentially contact additional motor vehicle licensing agencies when an individual's motor vehicle record reveals that additional information concerning that person's driving history may exist in the files of another agency not previously contacted. The proposed changes to paragraph (f) would address what an individual must do when a railroad is informed by an authority with driver's license information that additional information about the individual may exist in files of a foreign country.

Existing paragraph (h) requires certified locomotive engineers or engineer candidates to report certain motor vehicle incidents to his or her employing railroad within 48 hours of ''being convicted for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle drivers license for'' such incidents. FRA proposes to amend paragraph (h) so it is the same as the corresponding conductor certification requirement in § 242.111(l) by adding: ''For purposes of this paragraph and § 240.115(h), 'state action' means action of the jurisdiction that has issued the motor vehicle driver's license, including a foreign country.'' Thus, the proposed change would clarify that an individual who is a certified engineer has a duty to report certain motor vehicle incidents to any railroads that have certified the person within 48 hours of the completed ''state action'' by both U.S. states that issue driver licenses and foreign countries.

Several members of the RSAC Working Group suggested FRA remove the requirement for an individual seeking certification or recertification as a locomotive engineer to request that the railroad be provided consent to request from the NDR a report of the person's motor vehicle driving history. Because those checks of the NDR are statutorily required for locomotive engineers, FRA cannot eliminate them. *See* 49 U.S.C. 20135(b)(6)(B).

Section 240.113 Individual's Duty To Furnish Data on Prior Safety Conduct as an Employee of a Different Railroad

Existing § 240.113 requires persons subject to Part 240 to make information on his or her prior railroad service record available to any railroad considering the individual for certification or recertification under Part 240. FRA proposes amending paragraph (a) of this section to make it conform as closely as possible to paragraph (c) of § 242.113 and to clarify what service record information an individual must request from a former railroad employer. Currently, paragraph (a) requires the person ''to make information concerning his or her prior railroad service record available to the railroad that is considering'' his or her certification or recertification. This proposed rule would require an individual to share only a subset of his or her prior railroad service record (*i.e.,* only information on an individual's compliance or non-compliance with §§ 240.111 (prior safety conduct as a motor vehicle operator), 240.117 (prior operating rule or practice violations), and 240.119 (prior substance abuse disorders and alcohol/drug rules compliance)).

Section 240.115 Criteria for Consideration of Prior Safety Conduct as a Motor Vehicle Operator

This section provides the requirements and procedures a railroad must follow when evaluating an engineer's or engineer candidate's prior conduct as a motor vehicle operator. FRA proposes revising this section in its entirety to be consistent with paragraphs (a) through (f), and (n) and (o) of § 242.111. Proposed paragraph (a) requires railroads to adopt and comply with an engineer certification program meeting the requirements of § 240.115. Proposed paragraph (b) requires railroads to determine if an individual meets the eligibility requirements of the section before initially certifying or recertifying the person.

Proposed paragraphs (c) through (f) incorporate the same temporary certification provisions as in paragraphs (c) through (f) of § 242.111. During RSAC Working Group meetings, members raised concerns about certification candidates who had properly requested motor vehicle operator information but could not be certified or recertified as locomotive engineers because of a driver licensing agency's delay or mix-up sending the required information to the railroad. To address this concern as it relates to conductors, paragraphs (c) and (d) of § 242.111 require railroads to certify or recertify an individual as a conductor for 60 days if the person: (1) Requested the required information at least 60 days prior to the date of the decision to certify or recertify; and (2) otherwise meets the eligibility requirements provided in the rule. Paragraph (e) of § 242.111 provides that if a railroad certifies or recertifies an individual as a conductor for 60 days under § 242.111, but cannot obtain and evaluate the required information during those 60 days, the person is ineligible to perform as a conductor until the information can be evaluated. However, paragraph (f) of § 242.111 provides that if an individual simply cannot obtain the required information, that person or the certifying or recertifying railroad can petition FRA for a waiver of the requirement (*see* part 211). During the pendency of the waiver request, a railroad must certify or recertify an individual as a conductor if the person otherwise meets the eligibility requirements of Part 242. Because the RSAC Working Group's concerns regarding motor vehicle operator information for conductors are equally applicable to locomotive engineers, FRA proposes to adopt the same temporary certification provisions of § 242.111(c) through (f) in § 240.115(c) through (f).

With the exception of citations to relevant sections of Part 240, proposed paragraphs (g) and (h) of this section are the same as paragraphs (m) and (n) of § 242.111. These paragraphs prohibit railroads from considering certain information about a certification candidate's motor vehicle driving record and specify the types of motor vehicle incidents that a railroad may consider when making a certification decision.

FRA proposes paragraph (i) of this section to be the same as paragraph (o) of § 242.111, which provides that if a railroad identifies a prior motor vehicle

[5] *https://www.nhtsa.gov/research-data/national-driver-register-ndr.*

incident it must provide the data along with ''any information concerning the person's railroad service record'' to its DAC (not an ''EAP Counselor'' as existing paragraph (c) of § 240.115 provides). Further, the same as paragraph (o) of § 242.111, proposed paragraph (i) would require the railroad's DAC to refer the certification candidate for evaluation to determine if the person is currently affected by an active substance abuse disorder. If the person is currently affected by such a disorder, the person cannot be currently certified. Alternately, even if the person is evaluated as not currently affected by an active substance abuse disorder, the railroad would be required, if recommended by a DAC, to condition certification upon participation in needed aftercare and/or follow-up testing for alcohol or drugs, or both. For the reasons explained in the above section-by-section analysis for the definitions of ''drug and alcohol counselor,'' ''EAP Counselor,'' ''Substance abuse disorder,'' and ''Substance Abuse Professional,'' [6] FRA notes that any testing performed as a result of a DAC's recommendation under paragraph (i) of this proposed rule must be done under company authority, not Federal. Such testing, however, would still be required to comply with Part 219, subpart H, and Part 40. The same as paragraph (o)(5) of § 242.111, proposed paragraph (i)(5) would clarify that a failure to cooperate in the DAC evaluation will result in the person being ineligible to perform as a locomotive engineer until the person cooperates in the evaluation.

FRA notes it does not intend for DOT's requirement for direct observation of urine collection to apply to follow-up testing required as a result of motor vehicle alcohol or drug incidents. A motor vehicle alcohol or drug incident requiring follow-up testing is not a Part 219 violation. As such, a motor vehicle alcohol or drug incident does not meet the criteria justifying direct observation as provided by § 40.67. A DAC, however, may recommend direct observation of urine collection as necessary for follow-up testing under company authority. *See* 76 FR 69802, 69806–69807 (Nov. 9, 2011).

[6] A member of the Working Group objected to using a SAP for § 240.115 purposes, asserting that some railroad employees may have to travel great distances to be evaluated by a SAP. This issue was thoroughly discussed at Working Group meetings during the development of Part 242. For the reasons discussed at the Working Group meetings and in the preamble discussion of Part 242 (*see* 76 FR 69802, 69806–69807 (Nov. 9, 2011)), FRA disagrees with the objection to using a SAP for purposes of § 240.115.

Section 240.117 Criteria for Consideration of Operating Rules Compliance Data

Existing § 240.117 provides the criteria and procedures a railroad must follow to evaluate an engineer's or engineer candidate's compliance with specific types of operating rules and practices. FRA is proposing a number of revisions to clarify the meaning of this section and to conform the section to the corresponding provisions of the conductor certification rule in § 242.403.

Existing paragraph (a) requires railroads' Part 240 programs to include ''criteria and procedures for implementing'' § 240.117. FRA is proposing to revise paragraph (a) to explicitly state that each railroad, railroad officer, supervisor, or employee who violates any requirement of a railroad's FRA-approved certification program shall be considered to have violated the requirements of § 240.117. FRA intends this proposed revision to clarify the responsibility of railroads and individuals to comply with § 240.117. FRA proposes parallel changes in several other sections in subpart B, including paragraphs (a) of §§ 240.119, 240.121, 240.123, 240.125, 240.127, and 240.129. These proposed changes would make the implementing language in these sections of Part 240 the same as that in the corresponding sections of Part 242 (*i.e.,* §§ 242.111 through 242.125).

Existing paragraph (c)(1) requires the mandatory revocation of a locomotive engineer's certificate when he or she has ''demonstrated a failure to comply, as described in paragraph (e) of this section, with railroad rules and practices for the safe operation of trains.'' To clarify this requirement and make it the same as § 242.403(c)(1), but not substantively change it, FRA proposes to revise paragraph (c)(1) in part by removing the phrase ''with railroad rules and practices for the safe operation of trains.'' Even though that phrase is conditioned by the reference to paragraph (e), some railroads incorrectly read the phrase as expanding the number or type of operating rules or practices violations that require revocation. The more concise proposed revision specifies that the unlawful actions requiring mandatory revocation of a locomotive engineer's certification are limited to those involving a certified locomotive engineer who has demonstrated a failure to comply with railroad rules and practices described in paragraph (e) of the section.

Existing paragraph (c)(3) prohibits the revocation of a locomotive engineer's certification if he or she is called to perform the duty of a train crew member other than a locomotive engineer and is performing that non-locomotive engineer duty. As proposed, FRA would add the words ''or conductor'' to paragraph (c)(3) to prohibit revocation of an individual's locomotive engineer certification when that person is called to perform the duty of a train crew member, other than that of locomotive engineer or conductor, and the person is performing such duties. This proposed revision would make § 240.117(c)(3) similar to the related Part 242 provision (§ 242.403(c)(3)).

Proposed paragraph (e)(5) would add an ''or'' after the semicolon and proposed paragraph (e)(6) would correct the existing typographical error of a semicolon at the end of the paragraph instead of a period.

Existing paragraph (f) provides: (1) If a single incident contravenes more than one operating rule or practice listed in paragraph (e) of the section, that incident is to be treated as a single violation; (2) an engineer may have his or her certification revoked for violations occurring during properly conducted operational compliance tests; and (3) an engineer may not have his or her certification revoked for operational tests not conducted in compliance with Part 240, the railroad's operating rules, or a railroad's program under § 217.9. FRA proposes adding new paragraph (f)(4), which would prohibit a railroad from denying or revoking an employee's certification based upon additional conditions or operational restrictions imposed pursuant to § 240.107(d). Thus, a railroad could not revoke a locomotive engineer's certificate for an alleged violation of a railroad rule or practice that is more stringent than the condition or restrictions required by Part 240. This proposal conforms to § 242.403(f)(4).

Existing paragraphs (g)(3)(i) and (ii) currently state the mandatory revocation periods in terms of ''months.'' FRA proposes to change ''month'' to 30 days and ''six months'' to 180 days to ensure uniformity and eliminate any ambiguity.

Finally, FRA proposes adding a new paragraph (h) after existing paragraph (g) in this section, providing that all periods of revocation may consist of training. While existing Part 240 does not contain a similar provision, it is certainly not prohibited under the current regulation and FRA is including this proposed revision to make FRA's intent clear and to conform to § 242.405(b). By inserting proposed paragraph (h) after existing paragraph (g), existing paragraph (h) (addressing an individual's future eligibility to hold a locomotive engineer certificate after a

denial of certification or revocation event) would be redesignated as proposed paragraph (i).

Section 240.119 Criteria for Consideration of Data on Substance Abuse Disorders and Alcohol/Drug Rules Compliance

Existing § 240.119 addresses active substance abuse disorders and prior alcohol/drug rules compliance of engineers or engineer candidates. FRA is proposing to revise this section to make it the same as corresponding § 242.115, which FRA believes is better organized and easier to understand than existing § 240.119. The only differences between the proposed Part 240 version of this section and the Part 242 version are the references to locomotive engineer instead of conductor, and citations to the engineer rule instead of the conductor rule. Existing paragraph (b)(2) requires a ''certified engineer who is determined to have an active substance abuse disorder'' to be ''suspended from certification.'' Because the word ''suspended'' is not defined in existing Part 240, FRA proposes to replace the phrase ''suspended from certification'' with the phrase ''ineligible to hold certification.'' This revision would make existing § 240.119(b)(2) consistent with the corresponding provision in § 242.115(d)(2), and the revised paragraph would be renumbered as paragraph (d)(2).

FRA is also proposing to remove the word ''failure'' from the phrase ''refusal or failure'' in existing paragraph (c)(2) and renumber the paragraph as proposed paragraph (e)(2) of this section. Existing paragraph (c)(2) requires a railroad, when determining whether an individual may be or remain certified as a locomotive engineer, to consider any previous violations of §§ 219.101 or 219.102 and any ''refusal or failure to provide a breath or body fluid sample for testing'' under Part 219. Removing the word ''failure'' will make this paragraph the same as paragraph (e)(2) of § 242.115 and ensure consistency with subpart I of Part 40, which provides the medical conditions under which an individual's failure to provide a sufficient sample is not deemed a refusal.

In addition, FRA proposes to amend this section by replacing ''EAP Counselor'' with ''Substance Abuse Professional (SAP) or drug and alcohol counselor (DAC)'' for the reasons explained above in the section-by-section analysis for the definitions of ''drug and alcohol counselor,'' ''EAP Counselor,'' ''substance abuse disorder,'' and ''Substance Abuse Professional.''

Finally, existing paragraph (d) of this section, now proposed paragraph (f), prescribes the conditions under which employees may be certified or recertified after a determination that their certification should be denied, suspended, or revoked due to a violation of §§ 219.101 or 219.102. Existing paragraph (d)(1)(iii) provides that an individual is not eligible for certification or recertification unless and until the person presents a urine sample that tests negative for alcohol and controlled substances assayed. FRA is proposing to revise this paragraph to make it the same as § 242.115(f)(1)(iii) and specify that an individual must have ''an alcohol test with an alcohol concentration of less than .02.'' Specifying the alcohol concentration limit more accurately reflects the provisions of Part 219.

FRA notes Part 240, like Part 242, does not require compensation of the employee for the time spent in testing, evaluation, counseling, or other treatment under paragraph (d) (now proposed paragraph (f)) of this section, which, under certain circumstances, is a condition precedent to retention of a locomotive engineer certificate. Instead, any applicable collective bargaining agreement or other terms and conditions of employment under the Railway Labor Act would dictate what compensation, if any, an employee is due.

Section 240.121 Criteria for Vision and Hearing Acuity Data

Existing § 240.121 contains the requirements for visual and hearing acuity railroads must incorporate into their locomotive engineer certification programs. FRA proposes to amend paragraphs (a) and (c) of this section to conform to § 242.117(a) and (i). These proposed revisions update Part 240's testing procedures and standards for the hearing acuity requirements. FRA is not proposing language consistent with § 242.117(c), (d), and (e) because similar requirements exist in § 240.207(b), (c), and (d). The proposed testing procedures and standards for the hearing acuity requirements, which mirror those in § 242.117(i), are derived from the procedures and standards in 49 CFR part 227 governing occupational noise exposure and are more stringent than those in existing § 240.121. The criteria an individual must meet to pass the hearing test, however, remains the same (*i.e.,* an individual cannot have an average hearing loss in the better ear greater than 40 decibels with or without use of a hearing aid, at 500 Hz, 1,000 Hz, and 2,000 Hz).

The proposed testing procedures and standards for the hearing test or audiogram are the same three choices provided to conductors in § 242.117(i). The hearing test or audiogram must (1) meet the requirements of the Occupational Safety and Health Administration's requirements in 29 CFR 1910.95(h); (2) comply with § 227.111; or (3) be conducted using an audiometer meeting the specifications of ANSI S3.6–2004, ''Specifications for Audiometers,'' provided the audiometer is maintained and used as that standard requires.

Section 240.123 Training

Existing § 240.123 requires railroads to provide their certified locomotive engineers initial and continuing education to ensure each engineer maintains the necessary knowledge, skill, and ability to carry out the duties of a locomotive engineer. FRA proposes to revise this section's heading to be the same as § 242.119 (Training). FRA also proposes to amend this section to be similar to Part 242 (§ 242.119), and to relate the training and education requirements of Part 240 to the requirements of 49 CFR part 243 (Part 243) for the training, qualification, and oversight of safety-related railroad employees.

Although Part 243 was a statutorily mandated rule, it was neither proposed nor effective when Part 242 became effective. However, the Part 243 proposed rule was based on an RSAC recommendation made before Part 242 was published,[7] and so the industry was aware of the likely requirements to be proposed and FRA understood RSAC's intent as a desire for conductor training standards to meet any future, FRA training standard requirements in § 243.101. Part 243 requires each employer of safety-related railroad employees to submit training programs for FRA's review and approval. FRA's Part 243 review is intended to ensure that each employer will deliver formal training on all required Federal railroad safety requirements to each occupational category or subcategory of employee doing safety-related work and that OJT is formalized, with a structured curriculum that provides measurable results.

In FRA's estimation, locomotive engineer and conductor training programs have been, and continue to be, sufficiently robust to meet the Part 243 standards. These certification training

[7] On November 9, 2011, FRA published the conductor certification final rule which was effective on January 1, 2012. 76 FR 69802. On February 7, 2012, FRA published the Part 243 proposed rule which noted that the Working Group's recommendations were accepted by the full RSAC on December 14, 2010. 77 FR 6412, 6415.

programs are already required to be submitted to FRA for review and approval under Parts 240 and 242, and thus railroads were exempted from submitting them under Part 243, unless the railroad's plan did not provide sufficient detail regarding the OJT components (§ 243.103(b)). When that is the case, the railroad is only required to supplement the certification training program with the updated OJT portion as a material modification as required in §§ 240.103(e) and 242.103(i). In keeping with the Part 243 requirements, FRA proposes to amend paragraph (c) of this section to require a railroad training a previously untrained person to be a locomotive engineer to provide initial training that, at a minimum, complies with the requirements of § 243.101. The proposed language is intended to ensure that locomotive engineer OJT programs are properly modified, if necessary to conform to the requirements in § 243.101. The deadlines for implementing the modifications are governed by Part 243. Note that FRA amended the implementation deadlines for compliance with § 243.101, and so railroads and other employers that employ locomotive engineers are not required to modify locomotive engineer OJT programs until January 1, 2020, at the earliest (a May 1, 2021 deadline is established for an employer conducting railroad operations employing fewer than 400,000 total employee work hours annually). 82 FR 20549 (May 3, 2017) (extending all implementation dates in Part 243 by one year) and 82 FR 18455 (April 27, 2018) (extending all implementation dates in Part 243 by an additional year, thereby delaying each of the implementation dates in the 2014 Part 243 final rule by a total of two years).

Existing paragraph (c)(4) lists the subject matters a railroad's initial locomotive engineer training must cover. Proposed paragraph (c)(4)(ii) would add ''railroad operating procedures'' to the list of subject matter areas to be covered during initial training. Existing paragraph (c)(4)(ii) only references ''railroad operating rules.''

Proposed paragraph (c)(4)(vi) would clarify that a railroad's initial locomotive engineer training must cover ''[c]ompliance with Federal railroad safety laws, regulations, and orders.'' The existing paragraph only mentions compliance with Federal regulations, so the proposed language is more precise in expressing the Federal requirements that must be covered. The proposed language is also the same as that found throughout § 242.119.

Existing paragraph (c)(5) specifies that the performance skill component of initial engineer training must meet certain conditions. FRA proposes to add the phrase shall ''meet the following conditions'' to the introductory text of this paragraph to clarify that each of the listed conditions must be met.

Finally, FRA proposes to add new paragraphs (e) and (f) to this section. These paragraphs would require railroads to designate in their locomotive engineer programs the time period in which a locomotive engineer must be absent from a territory or yard before requalification on physical characteristics is required and the procedures used to qualify or requalify an individual on the physical characteristics. These proposed new paragraphs would be the same as paragraphs (j) and (k) of § 242.119, and are important components for ensuring locomotive engineers are familiar with the physical characteristics of the territory over which they will operate.

Section 240.125 Knowledge Testing

This section requires railroads to provide initial and periodic training and testing of locomotive engineers to determine that each such person has sufficient knowledge of the railroad's rules and practices for the safe operation of trains. FRA proposes to revise paragraph (a) of this section to be the same as paragraph (a) of § 242.121, which sets forth the requirement that railroads must adopt and comply with a program meeting the requirements of the section.

Similar to the proposed revision to § 240.123(c)(4)(vi) discussed above, FRA is also proposing to amend § 240.125(c)(4)(v) to clarify that the criteria for testing a locomotive engineer's knowledge must cover not only compliance with ''Federal safety laws,'' but also ''[c]ompliance with Federal railroad safety laws, regulations, and orders.''

FRA also proposes to add new paragraphs (e), (f), and (g), which would be the same as paragraphs (e), (f), and (g) of § 242.121. Proposed new paragraph (e) would require a railroad to provide the person(s) being tested with an opportunity to consult with a supervisory employee who possesses territorial qualifications for the territory to explain a test question. Proposed new paragraph (f) would require the railroad to keep documentation indicating whether the person passed or failed the knowledge test. Proposed new paragraph (g) would require each railroad to ensure that an individual who fails a knowledge test is not permitted or required to function as a locomotive engineer until that person achieves a passing score during a reexamination of the person's knowledge. FRA included these requirements in Part 242 to address RSAC Working Group members' concerns. Proposed paragraph (e) addresses RSAC Working Group members' concerns that individuals being tested should be able to obtain clarification of test questions by someone with knowledge of the relevant territory. Proposed paragraph (f) ensures test documentation indicates whether the person taking the test passed or failed the test. Proposed paragraph (g) prohibits a railroad from permitting or requiring an individual to function as a locomotive engineer until that person achieves a passing score on his or her knowledge test. This paragraph addresses the concern that an individual who fails a knowledge test would therefore lack adequate knowledge of the railroad's rules and practices for the safe operation of trains, even if the person is currently certified to do so. Because these same concerns addressed by requirements in the conductor rule are applicable to locomotive engineers, FRA is proposing to incorporate the same requirements into Part 240 as applied to locomotive engineers.

Section 240.127 Criteria for Examining Skill Performance

Existing § 240.127 requires a railroad to have procedures for examining the performance skills of an individual being evaluated for qualification as a locomotive engineer. As discussed in the above section-by-section analysis of § 240.117, FRA proposes to amend paragraph (a) of this section simply to clarify the responsibilities of railroads, railroad officers, supervisors, and employees regarding the requirements of this section.

Section 240.129 Criteria for Monitoring Operational Performance of Certified Engineers

Existing § 240.129 requires railroads to have procedures for monitoring the operational performance of locomotive engineers and contains the requirements for railroads to conduct both an operational monitoring observation and an unannounced compliance test each calendar year. FRA proposes to amend this section to provide the same flexibility as in Part 242 to conduct monitoring outside of the calendar year requirement when a certified person is not performing service requiring certification. *See* § 242.123(f). For example, a certified engineer may be on furlough, in military service, off with an extended illness, or working in another

capacity for the railroad. Existing § 240.129 requires railroads to seek a waiver from FRA for engineers they are unable to test each calendar year. The proposed amendments would remove this requirement and railroads would not be required to conduct unannounced compliance tests or operational monitoring observations on engineers who are not performing service requiring certification. Instead, when such a certified locomotive engineer returns to engineer service, this proposed rule would require that the engineer be given both tests within 30 days of his or her return. This proposed change would make the treatment of certified engineers who are not performing service requiring certification consistent with the treatment of conductors under § 242.123 not performing conductor service. *See* § 242.123(b) and (f). Moreover, proposed § 240.129(b)(2) would require a railroad intending to avoid conducting an operational monitoring observation or an unannounced compliance test on a certified engineer not performing service requiring certification to retain a written record documenting certain dates regarding a locomotive engineer's service to prove that the locomotive engineer met the exception in proposed paragraph (h). This is the same recordkeeping requirement as in § 242.123(b)(2).

Several other revisions are proposed to add clarity to the existing requirements. Existing paragraph (c) says ''the procedures shall,'' which does not make clear that the procedures in paragraph (c) apply to the operational monitoring observation, not the unannounced compliance test. Proposed paragraph (c)(2) clarifies that the procedure applies to an ''operational monitoring observation,'' not the more generic term ''operational performance monitoring'' which could apply to both the operational monitoring observation and the unannounced compliance test. Proposed paragraph (d) also clarifies that the procedure applies to an ''operational monitoring observation,'' as the existing language does not clearly specify whether it applies to an operational monitoring observation or an unannounced compliance test. Proposed paragraph (e) clarifies that the requirements listed apply to the unannounced compliance test program and not the ''operational monitoring observation,'' as the existing language does not clearly specify the type of test.

Section 240.205 Procedures for Determining Eligibility Based on Prior Safety Conduct

Existing section 240.205 requires railroads, before initially certifying or recertifying an individual as a locomotive engineer, to determine that the person meets the eligibility requirements of §§ 240.115, 240.117 and 240.119 involving the individual's prior conduct as a motor vehicle operator, prior revocations as a locomotive engineer or railroad worker with duties under Part 240, and prior FRA alcohol and drug violations that may be indicative of substance abuse disorders. FRA proposes to amend paragraph (a) of this section to clarify that a railroad need not, prior to certifying an individual as a student engineer, determine the person meets the listed eligibility requirements. FRA intends this revision as a clarification to make § 240.205(a) consistent with existing § 240.203. Under existing § 240.203, a railroad may certify an individual as a student engineer after determining the person meets the hearing and vision acuity standards of § 240.121, but the railroad does not need to determine if a student engineer meets the eligibility requirements of §§ 240.115, 240.117, and 240.119. There is no comparable provision in Part 242 because the conductor certification regulation does not recognize student conductors as a class of service.

For the reasons discussed above in the section-by-section analysis for the definitions of ''drug and alcohol counselor,'' ''EAP Counselor,'' ''substance abuse disorder,'' and ''Substance Abuse Professional,'' FRA proposes to revise paragraph (b) of this section by replacing ''EAP Counselor'' with DAC, the abbreviation for drug and alcohol counselor.

Section 240.207 Procedures for Making the Determination on Vision and Hearing Acuity

FRA proposes to amend this section by adding a semicolon at the end of paragraph (b)(2)(i). This proposed change does not change the meaning of this section. This existing section is the same as § 242.117(b) through (f).

Section 240.209 Procedures for Making the Determination on Knowledge

FRA proposes to amend this section by adding three punctuation marks and correcting the designation of paragraphs (b)(i) and (b)(ii) to (b)(1) and (b)(2) respectively. At the end of paragraph (b), FRA proposes to add a colon. At the end of paragraph (b)(i), FRA proposes to add a semicolon. Finally, in paragraph (c), FRA proposes to add a comma after the phrase ''[i]f a person fails to achieve a passing score under the testing procedures required by this part.'' The proposed changes do not change the meaning of this section and the requirements of this existing section are consistent with the requirements of § 242.121(f) and (g).

Section 240.211 Procedures for Making the Determination on Performance Skills

FRA proposes to amend this section by adding two punctuation marks and correcting the numbered paragraphs in paragraph (b). At the end of paragraph (b)'s introductory text, FRA proposes to add a colon. At the end of paragraphs (b)(i), FRA proposes to add a semicolon. The proposed changes do not change the meaning of this section.

Section 240.215 Retaining Information Supporting Determinations

This section contains the recordkeeping requirements for railroads that certify locomotive engineers. FRA proposes to amend paragraph (j) of this section to update Part 240's electronic record retention requirements and make those requirements the same as Part 242's. *See* § 242.203(g). While this section currently permits railroads to retain records electronically, proposed paragraph (j) of this section provides more specific requirements regarding the electronic storage system used to retain the records. FRA recognizes the growing prevalence of electronic records, and acknowledges the unique challenges electronic transmission, storage, and retrieval of records can present. FRA also recognizes the need to maintain the integrity and security of records stored electronically. Thus, FRA believes the more specific requirements for electronic storage systems adopted in Part 242 are appropriate. Further, to allow for future advances in technology, the electronic record storage provisions in proposed paragraph (j) are technology-neutral.

FRA also proposes to remove a semicolon at the end of paragraph (e)(2). The proposed change in punctuation does not change the meaning of this paragraph.

Section 240.217 Time Limitations for Making Determinations

This section contains various time constraints precluding railroads from relying on stale information when evaluating a candidate for certification or recertification. FRA proposes amending paragraphs (a)(2) and (a)(4) to

conform to Part 242 (*see* § 242.201). Existing paragraph (a)(2) prohibits a railroad from making a certification decision based on a visual and hearing acuity examination more than 366 days before its certification decision. As under § 242.201(a)(2), FRA proposes to allow railroads to use visual and hearing acuity examination data from up to 450 days before the certification decision. The 450-day period corresponds to the requirement in § 227.109 that railroads must offer employees included in a hearing conservation program a hearing test at least every 450 days.

To accommodate railroads performing knowledge testing on a two-year cycle, FRA also proposes adding a new paragraph (a)(4) to this section, the same as § 242.201(a)(4), which would allow those railroads to rely on knowledge determinations and knowledge examinations administered up to 24 months before the railroad's certification decision.

Given proposed new paragraph (a)(4), existing paragraph (a)(4) allowing railroads to rely on performance skills and performance skill testing up to 366 days before the railroad's certification decision would be redesignated as paragraph (a)(5). Part 242 does not contain a comparable provision.

FRA proposes to delete the prefatory language in paragraph (d) that refers to an exception during the initial implementation of the program. Because that initial implementation occurred in 1991 when Part 240 first became effective, there is no longer a need to state the exception.

FRA is also proposing a grammatical correction to paragraph (a)(1) to change ''were'' to ''was.''

Section 240.219 Denial of Certification

This section provides the minimum procedures railroads must follow before denying an individual's certification or recertification. FRA proposes to amend this section to update the minimum procedures railroads must follow before denying a candidate's certification or recertification and make it the same as the process for denying a conductor's certification or recertification under § 242.401. FRA believes the proposed amendments to paragraphs (a), (c), and (d) will not only improve the transparency of the locomotive engineer certification denial process and improve FRA's ability to adjudicate petitions seeking review of a railroad's denial decision pursuant to subpart E of Part 240 (Subpart E), but also ease the regulatory burden on railroads by having one consistent process to follow for denying both locomotive engineer and conductor certifications or recertifications.

Existing paragraph (a) of this section requires a railroad, before denying an individual's certification or recertification, to notify the individual of information known to the railroad that forms a basis for denying his or her certification and to provide the individual with a reasonable opportunity to explain or rebut the information in writing. To make this existing provision the same as § 242.401(a), FRA proposes adding a second sentence to this paragraph requiring a railroad to provide a locomotive engineer certification candidate with any written documents or records ''related to his or her failure to meet a requirement of Part 240 which supports a railroad's pending denial decision.'' FRA intends this revision to prevent situations where a railroad does not provide a locomotive engineer certification candidate with enough information regarding a denial decision to draft an appropriate rebuttal. FRA wants to avoid the delay and cost of a locomotive engineer candidate having to petition FRA's OCRB to obtain the documents he or she needs to rebut the denial decision. If locomotive engineer certification candidates are provided better information upfront, FRA expects they will file fewer petitions with the OCRB. As under Part 242, FRA would not require railroads to provide documentation on employment or personal issues because generally those issues are outside the scope of Part 240. Instead, FRA would require railroads to provide certification candidates with documents related to a failure to meet a requirement of Part 240 that would support a decision to deny the individual certification or recertification. For example, FRA would expect railroads to provide certification candidates locomotive download printouts, Form Bs, and/or transcripts of railroad communications support a pending denial decision. As it does under existing Part 240, under this proposed rule the OCRB would already have the authority to order a railroad to produce these types of documents and FRA would not expect these documents to be privileged. In a small number of petitions to the Locomotive Engineer Review Board (LERB), FRA noticed a railroad merely making the documents or records available for viewing by the person within a railroad office. The changes to this paragraph clarify FRA's current interpretation that a railroad is required to provide the person with a complete copy of those documents or records relied on, including color copies of photographs and videos in a readable format.

Existing paragraph (c) of this section requires each railroad denying an individual certification or recertification to notify the person of its decision in writing and explain, in writing, the basis for its denial decision. This existing paragraph requires the railroad's written explanation to be ''mailed or delivered'' to the certification candidate within 10 days after the railroad's decision. FRA proposes to revise this paragraph to require railroads to ''serve'' a written explanation of an adverse decision on a certification candidate (*see* proposed definition of ''serve or service'' in § 240.7, which is consistent with the term as defined in § 242.7). Using the defined term ''serve,'' rather than the current phrase ''mailed or delivered,'' will make Part 240 internally consistent and will help FRA in determining whether a petition seeking review of a denial decision is timely filed under § 240.403. As paragraph (c) to § 242.401 does, the proposed changes to § 240.219 would also explicitly require a railroad's denial decision address any explanation or rebuttal information a locomotive engineer candidate may have provided in writing under paragraph (a) of this section. The current rule strongly implies a railroad's denial decision should address any such information a certification candidate provides, but often railroads' decisions do not address this information. The failure of railroads to explicitly address information certification candidates provide to rebut potential adverse decisions has led to delays in FRA's review of railroads' decisions, as FRA often needs to query the railroad on why the explanation or rebuttal was unsatisfactory before determining whether the railroad's decision was proper. By requiring a railroad's decision to explicitly address a candidate's rebuttal, FRA anticipates locomotive engineer candidates petitioning FRA will have a better understanding of the railroad's reasoning for its denial decision and FRA's OCRB will be able to complete its review of the railroad's decision on a more-timely basis.

Consistent with paragraph (d) of § 242.401, which prohibits a railroad from denying an individual's conductor certification for failure to comply with certain operating rules or practices if sufficient evidence exists that an intervening cause prevented or materially impaired the conductor's ability to comply, FRA proposes to add a new paragraph (d) to this section. Paragraph (d) would explicitly prohibit a railroad from denying an individual's

locomotive engineer certification based on his or her failure to comply with § 240.117(e)(1) through (5) if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the locomotive engineer's ability to comply with those provisions. FRA derived proposed paragraph (d) from the intervening cause exception for revocation in existing § 240.307(i)(1). Although the regulation already implies a railroad may not deny an individual certification for an alleged operating rule violation occurring when the person's actions are the result of an intervening cause, this proposed revision to paragraph (d) will clarify this limitation.

Section 240.221 Identification of Qualified Persons

Existing § 240.221 requires railroads to maintain, and update at least annually, a written record identifying each person designated as a supervisor of locomotive engineers (DSLE) and as a certified locomotive engineer.

Currently, paragraph (d) requires railroads to update the listings this section requires at least annually and paragraph (e) requires railroads to keep the required lists at the divisional or regional headquarters of each railroad. To simplify the regulation, FRA proposes to combine the requirements of existing paragraphs (d) and (e) into one paragraph, proposed paragraph (d). As proposed, paragraph (d) would be the same as paragraph (c) of § 242.205.

FRA also proposes to add new language to paragraph (e) clarifying that it is unlawful for a railroad to knowingly, or an individual to willfully, make a false entry on or falsify the lists this section requires. The same language is found in § 242.205(d) and similar language is found in § 240.215(i) (referencing ''records'' as opposed to ''lists'').

While existing paragraph (f) of this section permits railroads to retain records electronically, the proposed revision to paragraph (f) provides more specific requirements for the electronic storage system used to retain the records and does not require a railroad to obtain FRA approval to maintain the records electronically. The electronic storage requirements in proposed paragraph (f) track those in §§ 242.203(g) and 242.205(e).

Section 240.223 Criteria for the Certificate

This section contains the requirements for the certificates railroads must issue to each certified locomotive engineer. Among other things, existing § 240.223 requires locomotive engineer certificates to contain the certified individual's birth date and the date the railroad issued the certificate. To address privacy concerns RSAC Working Group members expressed, conform the requirements of this section to § 242.207, and make it easier for railroads to issue a single certificate to an individual certified as both a conductor and a locomotive engineer, FRA proposes two changes to this section. First, FRA proposes to revise paragraph (a)(3) to be the same as paragraph (a)(3) of § 242.207. As revised, paragraph (a)(3) would require the certificate to contain only the year of the individual's birth (as opposed to his or her full birth date). FRA also proposes to revise paragraph (a)(5) to be the same as paragraph (a)(5) of § 242.207. As revised, paragraph (a)(5) would require certificates to include the effective date of the certificate (as opposed to the issuance date currently required). Some railroads currently include both the issuance date and the effective date on certificates, which has caused confusion when calculating certificates' expiration dates. Unless an expiration date is provided on a certificate, the effective date, in conjunction with the railroad's Part 240 program, is the date that FRA will use to determine when the certificate expires. In other words, when reviewing a certificate that contains only an effective date, FRA will assume that the certificate is valid for 36 months from the effective date unless the railroad's Part 240 program specifies a shorter expiration period.

Section 240.225 Reliance on Qualification Determinations Made by Other Railroads

Existing § 240.225 contains the conditions under which a railroad considering certification of an individual as a qualified engineer may rely on determinations concerning that person's qualifications made by another railroad. FRA is not proposing any substantive change to this section. However, for clarity and consistency with the corresponding provision in Part 242 (§ 242.125), FRA is proposing to redesignate as paragraph (b) the last sentence of paragraph (a)'s introductory text, along with the list in paragraphs (a)(1) through (5). This change would make the structure of § 240.225 consistent with the structure of § 242.125. Paragraph (a) would provide that in making certification decisions, a railroad may rely on determinations made by another railroad, and paragraph (b) would specify the determinations a railroad needs to make when relying on another railroad's certification of an individual as a qualified locomotive engineer.

Section 240.229 Requirements for Joint Operations Territory

FRA is not proposing any changes to the requirements in this section, but offers this analysis to address issues raised by some RSAC Working Group members. Under existing § 240.229, the railroad responsible for controlling joint operations with another railroad is also responsible for determining who is permitted to operate in the joint operations territory and for certifying those locomotive engineers to operate in the joint operations territory.

Some RSAC Working Group members suggested that a railroad controlling joint operations should not be responsible for making any determinations concerning the certification and territorial qualifications of another railroad's locomotive engineers. However, because this is a requirement of both Part 240 (*see* §§ 240.221(c) and (d), and 240.229(c)(1)(i)) and Part 242 (*see* § 242.301(a)), this suggestion would involve more than just conforming Part 240 to Part 242. Further, this is an issue that FRA extensively addressed in an August 29, 2008 published interpretation. 73 FR 50883. In that interpretation, FRA explained that some controlling railroads directly certify and qualify another railroad's locomotive engineers, whereas other controlling railroads indirectly certify and qualify. Controlling shortline and regional railroads typically directly certify and qualify; controlling major freight railroads generally indirectly certify and qualify. 73 FR at 50884. FRA maintains that although the employing railroad may generally bear the most direct responsibility to ensure each of its locomotive engineers is certified and qualified to operate in the joint operations territory, the controlling railroad also bears significant responsibility. The controlling railroad that indirectly certifies and qualifies may provide training to the other railroad's DSLEs who then train their own locomotive engineers, and it is possible that the training provided to the other railroad is inadequate. Although FRA may be willing to revisit this issue in another rulemaking, FRA believes that a controlling railroad must bear some responsibility for hosting another railroad's locomotive engineers and conductors in joint operations territory and for that reason FRA declines to adopt the suggestion to eliminate that responsibility in this proposed rulemaking.

Paragraph (f) does provide an exception to this section's requirements for ''minimal joint operations'' if four conditions are met. The four conditions include: (1) Maximum authorized speed on the track is 20 miles per hour; (2) the track is other than main track; (3) operations are conducted under operating rules requiring every locomotive and train to proceed at a speed permitting stopping within one half the range of vision of the locomotive engineer; and (4) there is no more than one mile of joint operations territory. This locomotive engineer exception is more lenient than the equivalent conductor provision, which is a strict prohibition on an unqualified conductor working in joint operations territory. § 242.301(a).

A RSAC Working Group member suggested FRA revise paragraph (f) of § 240.229 to require compliance with only one of the listed conditions, not all four. FRA declines to propose this suggestion because it would permit locomotive engineers who are unfamiliar with the physical characteristics of the joint operations territory to operate far into that unfamiliar territory under conditions that could be extremely challenging for the locomotive engineer. Thus, it is probable that such a provision would lead to many unsafe situations in joint operations.

Section 240.301 Replacement of Certificates

Existing § 240.301 requires railroads to have a system, reasonably accessible to certified locomotive engineers, for the prompt replacement of lost, stolen, or mutilated certificates. FRA proposes to revise this section to be the same as the corresponding provision in Part 242, § 242.211. Specifically, FRA proposes dividing this section into two paragraphs. Proposed paragraph (a) would be the same as paragraph (a) of § 242.211 and would make railroads responsible for providing replacement certificates to engineers at no cost to the locomotive engineer. Proposed paragraph (b) would be the same as paragraph (b) of § 242.211, which authorizes railroads to issue temporary replacement certificates valid for no more than 30 days.

Section 240.303 Operational Monitoring Requirements

Section 240.303 currently requires railroads subject to Part 240 to have a program to monitor the conduct of their certified locomotive engineers by performing both operational monitoring observations and by conducting unannounced operating rules compliance tests. For consistency with the proposed revisions to § 240.129 (discussed above in the section-by-section analysis for that section), FRA proposes to amend paragraphs (b) and (c) of this section to exempt railroads from the requirement to conduct unannounced compliance tests on locomotive engineers who are not performing service requiring certification.

Section 240.305 Prohibited Conduct

This section sets forth the general prohibitions on actions of certified locomotive engineers, requires individual engineers to keep their certificates with them while on duty as engineers, and requires engineers to display their certificates in certain situations. Specifically, under existing paragraph (b) of this section, a certified locomotive engineer must display her or her certificate upon the request of an FRA or railroad representative. In the section-by-section analysis for the conductor certification final rule, FRA clarified its intent that State inspectors authorized under FRA's State Safety Participation Regulations, 49 CFR part 212 (Part 212), could be considered ''FRA representatives,'' but that by mentioning such State inspectors separately it would ensure that there would be no dispute regarding their authority. 76 FR at 69824–25. For that same reason, FRA proposes to amend this paragraph to make it the same as paragraph (a) of § 242.209 and expressly add a new paragraph (b)(2)(ii) making clear that, upon request, a locomotive engineer must display his or her certificate to a State inspector authorized under Part 212. In doing so, FRA proposes to add a colon to the end of paragraph (b)(2) and renumber existing paragraphs (b)(2)(ii) and (iii).

Section 240.307 Revocation of Certification

Existing § 240.307 provides the procedures a railroad must follow to revoke a certified locomotive engineer's certification. FRA proposes to amend this section to clarify its intent and make it the same as § 242.407, which addresses the revocation of conductor certifications. A more detailed discussion of these changes is found in the section-by-section analysis of § 242.407 in the conductor certification final rule. 76 FR at 69829.

Existing paragraph (a) requires a railroad to revoke an engineer's certification if it ''acquires information'' about the engineer's violations of certain operating rules and practices or prior alcohol or drug violations ''which convinces the railroad the person no longer meets the qualification requirements'' of Part 240. FRA proposes to amend this paragraph to add the word ''reliable'' before ''information,'' and to remove the phrase ''which convinces the railroad that the person no longer meets the qualification requirements of this part.'' These proposed revisions would make paragraph (a) of this section the same as paragraph (a) of § 242.407.[8]

Paragraph (b)(1) currently requires railroads to immediately suspend an engineer's certificate upon receipt of ''reliable information indicating the person's lack of qualification'' under Part 240. FRA believes this phrase is prone to misinterpretation and proposes to replace the reference to an individual's ''lack of qualification'' under Part 240 with more specific language ''regarding violation(s) of § 240.117(e) or § 240.119(c) of this chapter.'' This proposed change would make paragraph (b)(1) of this section the same as paragraph (b)(1) of § 242.407(b), with the exception of the regulatory provisions cited.[9]

To mirror the procedures in Part 242, FRA proposes to add a new paragraph (b)(4) to this section specifying that no later than the convening of a hearing, the railroad convening the hearing must provide the person whose engineer certificate is at stake with a ''copy of the written information and list of witnesses the railroad will present at the hearing.'' Further, if the railroad does not provide the required information until just before the hearing is convened, a recess at the start of the hearing must be granted if requested to consider the information. In addition, any relevant information required to be provided under this section that leads to the suspension of an engineer's certificate pursuant to paragraph (b)(1), is to be provided through statements of an employee of the convening railroad, and the railroad must make that employee available for examination during the hearing. Finally, FRA proposes to clarify in the last sentence of new paragraph (b)(4) that a witness's examination may be telephonic where it is impractical to have the witness appear at the hearing. These proposed provisions would make paragraph (b)(4) of § 240.307 the same as paragraph (b)(4) of 242.407.

[8] The only difference between proposed paragraph (a) of § 240.307 and existing paragraph (a) of § 242.407 are the regulatory citations referenced for violations of (1) operating rules and practices and (2) alcohol or drug use. Paragraph (a) of § 240.307 refers to the relevant provisions of Part 240 (§ 240.117(e) and § 240.119(c)); paragraph (a) of § 242.407 refers to the relevant provisions of Part 242 (§ 242.403(e) and § 240.115(e)).

[9] See footnote 8.

Some members of the RSAC Working Group suggested revising proposed paragraph (b)(4) to require railroads to provide all (as opposed to written) information relied upon to suspend an individual's certificate and to add the word ''only'' in the last sentence of that paragraph to read: ''Examination may be telephonic only where it is impractical to provide the witness at the hearing.'' Because those changes do not conform to Part 242, FRA declines to adopt them for this rulemaking. However, FRA will consider addressing these issues in any future Part 240 and Part 242 rulemaking.

As proposed, paragraph (b)(4) would be a new requirement and its insertion in the existing list of six items in paragraph (b) means that paragraphs (b)(4) through (6) would be renumbered as paragraphs (b)(5) through (7). Paragraphs (b)(6) and (b)(7) would contain the same exact requirements as existing paragraphs (b)(5) and (b)(6). The proposed changes to existing paragraph (b)(4) (renumbered as proposed in paragraph (b)(5)), are described below.

Existing paragraph (b)(4) (which would become paragraph (b)(5) if new proposed paragraph (b)(4) discussed above is adopted), requires a railroad to ''[d]etermine, on the record of the hearing, whether the person no longer meets the qualification requirements of this part.'' Similarly, existing paragraph (c)(2) requires the hearing to be conducted by a ''presiding officer, who can be any qualified person authorized by the railroad other than the investigating officer.'' FRA proposes to replace the words ''qualification'' and ''qualified'' in these paragraphs with the words ''certification'' and ''proficient,'' respectively. These proposed amendments would make the language of paragraphs (c)(2) and (b)(5) of § 240.307 the same as paragraphs (c)(2) and (b)(5) of §§ 242.407 and FRA intends these amendments to avoid conflicting with the defined the term ''qualified'' (discussed in the section-by-section analysis for § 240.7).

Although FRA is not proposing to revise existing paragraphs (c)(1) and (3) of this section, FRA is taking this opportunity to clarify these existing paragraphs and how they affect an engineer's rights and a presiding officer's authority in a certification hearing that is not held in accordance with a collective bargaining agreement. Paragraph (c)(1) requires a Part 240 hearing to be convened within 10 days of an individual's certificate suspension unless the locomotive engineer requests or consents to delaying the start of the hearing. Paragraph (c)(3), on the other hand, provides the presiding officer with the ''powers necessary to regulate the conduct of the hearing for the purpose of achieving a prompt and fair determination of all material issues in controversy.'' Thus, while existing paragraph (c)(1) provides a locomotive engineer with significant input into when a hearing is held, the paragraph must be read in conjunction with paragraph (c)(3) which provides the presiding officer with the powers necessary to regulate the conduct of the hearing. Thus, a presiding officer is permitted to deny excessive hearing request delays by a locomotive engineer. Moreover, a presiding officer could find implied consent to postpone a hearing where a locomotive engineer's witnesses are not available within 10 days of the date the railroad suspends the engineer's certificate. FRA notes, however, the OCRB may grant a petition on review if it finds the hearing schedule caused a petitioner substantial harm.

Existing paragraph (c)(9) provides that a railroad proceeding under § 240.307(c) shall be closed at the conclusion of the hearing unless the presiding officer allows additional time for the submission of information. FRA is proposing typographical corrections to this paragraph to make the paragraph substantively the same as paragraph (c)(9) of § 242.407 (*i.e.,* adding the word ''the'' before ''conclusion'' in the first sentence and adding a comma after the introductory phrase ''[i]n such instances'' in the second sentence).

Existing paragraph (c)(11) requires a railroad's decision to contain the findings of fact and basis for those findings concerning all material issues presented on the record. The paragraph also requires the decision to be served on the employee. FRA is proposing revisions to paragraph (c)(11) to make it the same as paragraph (c)(11) of § 242.407, including expanding what information is required in the railroad's written decision and who must be served with a copy of that decision. Specifically, FRA proposes to amend paragraph (c)(11)(i) to require a railroad's written decision to not only include the factual findings, but also include ''citations to all applicable railroad rules and practices.'' FRA is also proposing a new paragraph (c)(11)(ii), which would require a railroad's decision to state whether the railroad official found that a revocable event occurred and the applicable period of ineligibility with a citation to § 240.117 or § 240.119. As proposed, the requirement in existing paragraph (c)(11)(ii) for a railroad to serve a copy of the decision on the adverse party would be renumbered as proposed paragraph (c)(11)(iii) and expanded to require the railroad to serve the decision not only on the employee but also on the employee's representative, if any, and to require the railroad serving the decision to retain proof of service on the employee and the employee's representative, if any. The existing rule does not specifically require a railroad to retain proof of service, but it is routine for a railroad to do so. In some prior certification cases, employees have complained to FRA that they were unaware of any written decision regarding their revocation, and if a railroad could not provide proof of service then that procedural concern became a viable issue. FRA believes requiring railroads to retain proof of service of their decertification decisions will help reduce the number of OCRB petitions alleging that a railroad did not issue a written decision, when in fact, the railroad did. In short, FRA believes its proposed changes to paragraph (c)(11) will ensure railroads issue clearer and more detailed decisions. Clearer and more detailed decisions will allow individual locomotive engineers to better understand a railroad's decision to revoke his or her certification and will allow the OCRB to better understand the case if it is asked to review the revocation decision under Part 240. Although the proposed changes are found in paragraph (c) which applies to a hearing not held in conformance with an applicable collective bargaining agreement, FRA would expect each hearing held pursuant to a collective bargaining agreement as permitted by paragraph (e) of this section to comply with these proposed changes to paragraph (c)(11), because they are fundamental to ensuring a railroad can prove its revocation decision was issued and served.

Existing paragraph (g) requires a railroad relying on an individual's locomotive engineer certification by another railroad under §§ 240.227 or 240.229 to revoke the individual's certification if, during the period the certification is valid, ''the railroad acquires information which convinces it that another railroad has revoked [the person's] certification after determining in accordance with the provisions of this section, that the person no longer meets the qualification requirements of this part.'' FRA proposes amending paragraph (g) to make it the same as paragraph (g) of § 242.407. Specifically, FRA proposes to amend paragraph (g) to remove the phrases ''after determining'' and ''that the person no longer meets the qualification requirements of this

part.'' By removing those phrases, the proposed paragraph will more clearly require a railroad allowing a certified person from another railroad to operate in joint operations, whether from another U.S. railroad or from Canada, to provide reciprocal revocations when another railroad revokes the person's certification. Both proposed and existing paragraph (g) are intended to ensure that each railroad issuing a certification to an individual who operates in joint operations does not ''ignore the safety record of one of its engineers that was compiled while the engineer was operating on another railroad's trackage.'' 58 FR 18982, 18991 (1993). Similarly, all railroads operating in joint operations that certify an individual as a locomotive engineer ''should rely on the single hearing provided and be bound by the decision made by the railroad conducting the hearing.'' *Id.*

FRA proposes to clarify existing paragraph (i) of this section by deleting unnecessary references to engineer qualification requirements and specifying when, despite an individual's violation of § 240.117(e)(1) through (5), a railroad is prohibited from revoking that individual's certification and when a railroad has discretion not to revoke an individual's certification for such violations. The proposed revisions to this paragraph will make this paragraph the same as paragraph (i) of § 242.407.[10] Both existing paragraph (i) and the proposed revision to paragraph (i) provide two specific defenses for railroad supervisors and hearing officers to consider when deciding whether to suspend or revoke an individual's certificate due to an alleged revocable event. Paragraph (i)(1) would prohibit a railroad from revoking an individual's certificate if there is sufficient evidence of an intervening cause that prevented or materially impaired the person's ability to comply. Paragraph (i)(2) would provide a railroad with the discretion necessary to decide not to revoke an engineer's certification for an event that violates § 240.117(e)(1) through (5) if the violation was of a ''minimal nature and had no direct or potential effect on rail safety.''

Proposed paragraph (j) would correct a typographical error by changing a semicolon to a period at the end of the paragraph.

[10] The only difference between proposed paragraph (i) of § 240.307 and paragraph (i) of § 242.407 are the regulatory citations referenced. Paragraph (i) of § 240.307 refers to violations of § 240.117(e)(1) through (5); paragraph (i) of § 242.407 refers to § 242.403(e)(1) through (11).

Section 240.308 Multiple Certifications

FRA proposes to add new § 240.308, which would allow an individual to hold both a locomotive engineer and a conductor certification and would address different scenarios that an individual or railroad might face when the individual holds multiple certifications. This proposed section is based on § 242.213 but would not adopt § 242.213(a) and (g), which address an individual holding multiple types of conductor certifications, *i.e.,* passenger conductor and freight conductor, because holding multiple locomotive engineer certifications would not make sense. Specifically, an individual would not need to hold a train service engineer certificate and a locomotive servicing engineer certificate, because a locomotive servicing engineer's duties are a subset of a train service engineer's duties. Similarly, a locomotive servicing engineer and a train service engineer would be expected to be qualified on RCLs, so there would be no need for engineers with either of those classes of service to hold an RCO certificate.

As proposed, a railroad needs to issue only one certificate to an individual certified as both a locomotive engineer and a conductor, but that certificate must comply with both §§ 240.223 and 242.207. To the extent possible, a railroad issuing multiple certificates to an individual would have to coordinate the expiration date of those certificates. *See* proposed § 240.308(a) and (b). These paragraphs mirror the requirements in paragraphs (b) and (c) of § 242.213.

With the exception of a situation in which a passenger conductor's removal from a passenger train is for a medical, police, or other such emergency, a locomotive engineer, including an RCO, must meet certain requirements to operate a locomotive or train without a certified passenger conductor. One option under the proposed requirement is for the person assigned as the certified locomotive engineer to also be a certified conductor. The other option is for the locomotive engineer who is operating without an assigned certified conductor to have a certified conductor attach to the crew ''in a manner similar to that of an independent assignment.'' *See* proposed § 240.308(c) and (d). These paragraphs mirror the requirements in paragraphs (d) and (e) of § 242.213.

Paragraphs (e) through (m) of proposed § 240.308 correspond to paragraphs (f) and (h) through (o), respectively, of existing § 242.213. A detailed analysis of these provisions is found in the section-by-section analysis of § 242.213 in the conductor certification final rule. 76 FR 69825.

Section 240.309 Railroad Oversight Responsibilities

Existing § 240.309 requires each Class I railroad (including the National Railroad Passenger Corporation and a railroad providing commuter service) and Class II railroad to conduct an annual review and analysis of its program for responding to detected instances of poor safety conduct by certified engineers. FRA proposes to amend this section to conform, where appropriate, to § 242.215.

Existing paragraph (b) of this section requires railroads to include four items in their annual review and analysis. Specifically, paragraph (b)(4) requires railroads conducting joint operations with another railroad or railroads to include the number of locomotive engineers employed by the other railroad(s) ''to which such events were ascribed which the controlling railroad certified for joint operations.'' FRA proposes to revise existing paragraph (b)(4) for clarity and to make the language mirror that in paragraph (b)(4) of § 242.215, but not to substantively change the requirement.

Existing paragraph (e) requires railroads to keep track of nine distinct types of events involving poor safety conduct by locomotive engineers. Specifically, existing paragraphs (e)(1) and (2) require railroads to keep track of incidents involving noncompliance with ''part 218'' and ''part 219''. To clarify that these citations refer to 49 CFR parts 218 and 219, FRA proposes to add the phrase ''of this chapter'' to both paragraphs (e)(1) and (2). Additionally, in paragraphs (e)(8) and (9), FRA proposes to correct typographical errors by adding the word ''and'' at the end of paragraph (e)(8) after the semicolon and removing the semicolon and word ''and'' at the end of paragraph (e)(9) and putting a period at the end of the sentence.

To accommodate a new paragraph proposed as paragraph (f) to revise the reporting requirements of the section, existing paragraphs (f) through (h) have been redesignated as proposed paragraphs (g) through (i). As paragraph (f) of § 242.215 does, proposed paragraph (f) would require a railroad to report an instance of poor safety conduct involving an individual holding both a conductor and engineer certification only once (*i.e.,* either under § 242.215 or this section). As proposed and consistent with § 242.215(f), a railroad's determination of whether to report the instance of poor safety conduct under Part 240 or Part 242 must

be based on the work the person was performing at the time the conduct occurred. This determination is similar to the determination made under 49 CFR part 225 in which railroads determine whether an accident was caused by poorly performing what is traditionally considered a conductor's job function (*e.g.,* switch and derail handling) or whether it was caused by poorly performing what is traditionally considered a locomotive engineer's job function (*e.g.,* operation of the locomotive or train).

Existing paragraph (f)(2) (which FRA is proposing to redesignate as paragraph (g)(2)), requires a railroad imposing formal discipline on a certified locomotive engineer for an instance of poor safety conduct to keep track of the type of punishment the ''hearing officer'' imposes. FRA proposes to slightly modify this paragraph, to acknowledge that the subject punishments are not always imposed by a ''hearing officer'' but instead may be imposed by other railroad officers. Accordingly, FRA proposes to replace the term ''hearing officer'' with the more general term ''railroad.'' As proposed, paragraph (g)(2) would be the same as paragraph (g)(2) in § 242.215.

In addition, existing paragraph (h)(2) (which FRA is proposing to redesignate as paragraph (i)(2)) requires a railroad's analysis under this section to be capable of showing the total number of incidents of poor safety conduct identified for which an ''FRA accident/incident report'' was required. FRA proposes to clarify this requirement to specify an ''FRA accident/incident report under part 225 of this chapter,'' to make clear which accident/incident report FRA is referring to in this paragraph. As proposed, paragraph (i)(2) would be the same as paragraph (i)(2) of § 242.215.

Subpart E—Dispute Resolution Procedures

Existing Subpart E details the opportunities and procedures for an individual to appeal a decision by a railroad to deny certification or recertification or to revoke an individual's locomotive engineer certification. Some members of the RSAC Working Group recommended changes to the existing appeals process contained in §§ 240.401 through 240.411. Those members suggested FRA create a pilot program for a dispute resolution procedure based on their recommended changes. Pursuant to the members' recommendations, FRA would designate one or more Class I railroads to participate in the pilot program. Those railroads, which are not part of the pilot program, would proceed under FRA's existing procedures.

The suggested changes, which were also recommended during the conductor certification rulemaking, include eliminating the opportunity for parties to appeal FRA decisions to the Administrator, incorporating the Administrative Hearing Officer (AHO) level of appeal into the OCRB process, requiring the OCRB to grant a decision if any procedural error by the railroad is shown, adding an attorney as a member of the OCRB, and making the OCRB decision final agency action.

For the reasons provided in the conductor certification rulemaking (*see,* 76 FR 69802 (Nov. 9, 2011) and 77 FR 6482 (Feb. 8, 2012)), in this proposed rule FRA declines to adopt these suggestions to revise the appeals process and create a pilot program. Members of the RSAC Working Group thoroughly discussed these suggestions and most of the suggestions were rejected at those meetings. As explained to the RSAC Working Group, due process requirements and issues concerning trials *de novo* necessitate FRA retain the OCRB and AHO as distinct levels of review. Further, the pilot program would prevent those railroad employees whose employers were required to participate in the program from taking advantage of the same appeals process opportunities available to employees of other railroads not participating in the program. In addition, the pilot program would require FRA to develop a second appeals process which would only apply to certain railroads for an unspecified amount of time. Accordingly, FRA finds that the pilot program recommended would treat similarly situated engineers disparately and thus FRA declines to propose to adopt the recommendation.

Although FRA is not adopting the RSAC Working Group members' recommendations, FRA has taken steps internally to make the appeals process more efficient. For example, FRA's LERB and OCRB decided more than twice as many cases in fiscal year 2017 (106 in total) than they did in fiscal year 2016 (51 in total), and rendered their decisions on average 18 days earlier. Further, between fiscal years 2012 and 2017, the average length of time for the AHO to render a decision in a locomotive engineer or conductor case under Parts 240 and 242 averaged between 6 and 8 months compared with 11 to 18 months during fiscal years 2009 through 2011. In fiscal year 2017, the AHO rendered 4 decisions in an average of approximately 7 months; in fiscal year 2009, the AHO rendered 13 decisions in an average of 18 months.

In addition, FRA is proposing in this rule to revise Part 240 to require petitions to be submitted to the DOT Docket Clerk rather than FRA's Docket Clerk. With that change, the process for submitting petitions to the OCRB will be the same as the process for requesting an administrative hearing under § 240.407 and § 242.507. FRA believes this change will make the process more efficient as DOT's Docket Operations facility is best equipped to process, scan, and store these types of filings. The proposal to change the docketing requirements will also permit a single docket to be maintained throughout the three stages of FRA's dispute resolution process, rather than an FRA docket maintained for LERB petitions and a separate DOT docket created for AHO cases.

Section 240.401 Review Board Established

Paragraph (a) of existing § 240.401 provides that an individual who is denied certification or recertification or has his or her engineer certification revoked, and believes that a railroad incorrectly determined that he or she failed to meet the ''qualification'' requirements of Part 240, may petition FRA to review the railroad's decision. FRA proposes to amend this section to delegate initial responsibility for adjudicating denial of certification or recertification and revocation disputes to FRA's OCRB. In paragraph (a), FRA proposes to substitute the word ''certification'' for ''qualification'' to clarify that FRA is reviewing railroads' certification decisions, not railroads' decisions as to whether individuals meet the ''qualification'' requirements of Part 240. This proposed change would make paragraph (a) of § 240.401 the same as paragraph (a) of § 242.501 and is not intended to change the substantive requirements of this paragraph. Instead, the proposed change would clarify the existing requirements and ensure internal consistency within Part 240 and consistency with Part 242.

As noted above, FRA proposes to revise existing paragraph (b) to provide that the OCRB, not the LERB, is delegated initial responsibility for adjudicating certification disputes under Part 240.

FRA proposes to revise paragraphs (b) and (c) to replace the existing name of the FRA review board referenced (the LERB) with the name of the board used in the conductor certification rule, the OCRB. In practice, the LERB and the OCRB are staffed by the same FRA employees, so it is logical to combine them under the same name—a more general name referring to all operating

crewmembers. This will also make it clear that there is only one board, the OCRB, that reviews both conductor and locomotive engineer disputes.

FRA proposes to revise paragraph (c) of this section to remove the requirement that the review board be composed of ''at least three'' FRA employees. The number of board members is an issue of internal agency organization, procedure, or practice that is normally left for an agency to decide. Such internal agency decisions can be made without notice to the public. *See* 5 U.S.C. 553(b)(3)(A). FRA retains the right to use any number of FRA employees as OCRB members, in coordination with agency resources and priorities.

The proposed revisions to § 240.401 would make the section the same as the corresponding section in Part 242, § 242.501.

Section 240.403 Petition Requirements

Existing § 240.403 provides the requirements for obtaining FRA review of a railroad's decision to deny certification, deny recertification, or revoke certification. FRA proposes to revise this section to make it the same as the corresponding provision in Part 242 (§ 242.503). The proposed amendments would provide a single process for aggrieved parties to submit FRA locomotive engineer petitions under Part 240 and conductor certification petitions under Part 242.

FRA proposes to revise paragraph (b)(2) to provide that petitions under Part 240 must be submitted to the DOT Docket Clerk rather than FRA's Docket Clerk. With this change, the process for submitting petitions to the OCRB would be the same as the process for submitting petitions under Part 242 (§ 242.503) and for requesting an administrative hearing under both Parts 240 and 242. FRA believes this change will make the process more efficient as DOT's Docket Operations facility is best equipped to process, scan, and store these types of filings. In addition, filings in OCRB proceedings will become more accessible because they will be available electronically on the DOT's public docket website (*www.regulations.gov*).

FRA notes that anyone is able to search (at *www.regulations.gov*) the electronic form of all filings received into any of DOT's dockets by the name of the individual submitting the filing (or signing the filing, if submitted on behalf of an association, business, labor union, or other organization). You may review DOT's Privacy Act Statement published on April 11, 2000 (65 FR 19476), DOT's notice modifying its system of records from DOT's Docket Management System (DMS) to the current Government-wide Federal DMS published on January 17, 2008 (73 FR 3316), or you may view the privacy notice of the Federal DMS at *http://www.regulations.gov/#!privacyNotice.*

Although FRA is proposing no changes to existing paragraph (b)(3) of this section, FRA notes that the ''petitioner'' referred to in paragraph (b)(3) of this section is the person who had his or her certificate revoked, not an employee representative who may respond on the petitioner's behalf. If the petitioner has a representative, the petitioner is encouraged to also provide the representative's name, mailing address, daytime telephone number, and email address (if available) in the petition.

FRA encourages all parties to an OCRB case to sign up for email alerts on *www.regulations.gov.* By subscribing to email alerts, a person will receive an email notification stating that information has been added to the specified docket and provide a link to view the addition. Email alerts have the potential to give a party earlier notice of a filing than actual service by mail.

FRA proposes to add a new paragraph (b)(7) to this section requiring a petitioner, upon the OCRB's request, to supplement the petition with ''a copy of the information under 49 CFR 40.329 that laboratories, medical review officers, and other service agents are required to release to employees.'' That paragraph would also require a petitioner to provide a written explanation in response to an OCRB request if written documents that should be reasonably available to the petitioner are not supplied. FRA is proposing these requirements to clarify a petitioner's responsibilities for a petition seeking review of a railroad's decision that is based on a failure to comply with any drug- or alcohol-related rule or a return-to-service agreement. The addition of proposed paragraph (b)(7) would make the paragraph the same as the corresponding paragraph in Part 242 (§ 242.503(b)(7)).

FRA proposes to revise existing paragraph (c) to require a petition seeking review of a railroad's revocation or denial decision under this section to be filed with FRA within 120 days of the date the railroad served the decision on the petitioner. This revision would make this provision of Part 240 the same as the corresponding provision in Part 242 (*see* § 242.503(c)). This revision would differ from the current timeline in Part 240, which contains different time requirements depending on whether a person is seeking review of a revocation decision (120 days) or a denial decision (180 days).

As proposed, paragraph (d) would also conform to paragraph (d) of § 242.503 by making clear that a person may also appeal a Board decision to the Administrator when the petition is found not to meet this section's minimum requirements. Currently, paragraph (d) expressly provides only that an appeal is allowed when the Board finds the petition was untimely filed, although FRA has directed petitioners whose petitions did not meet this section's minimum requirements that they may exercise this type of appeal. The reference to the ''Board'' in the existing rule refers to the LERB but for this proposed rule the Board is the OCRB.

Section 240.405 Processing Certification Review Petitions

FRA proposes to revise this section, which details how petitions for review will be handled by FRA, to make it the same as the corresponding provision in Part 242, § 242.505. To more accurately reflect the substance of this section, FRA proposes to revise the section heading to be the same as the heading of § 242.505—''Processing certification review petitions.'' Proposed paragraph (a) adds the clarification that the Board will ''attempt to'' render a decision within 180 days once it has all the filings, rather than emphatically state that it will render a decision within that same timeframe. The change proposed to paragraph (a) would make it the same as § 242.505(a).

As discussed above in the section-by-section analysis of proposed § 240.403, OCRB petitions would be accessible on *www.regulations.gov.* Therefore, FRA proposes to revise paragraph (b) of this section to specify that, as opposed to FRA providing the railroad with a copy of each petition it receives under Part 240, FRA will notify the railroad of its receipt of a petition under Part 240 and where the petition may be accessed online.

FRA proposes to revise paragraph (c) of this section to clarify the time limit for a railroad to respond to a petition if it chooses to do so. The proposed rule states that a railroad may respond ''[w]ithin 60 days from the date of the [FRA's] notification provided in paragraph (b).'' This differs from the existing language in paragraph (c) which states that ''[t]he railroad will be given a period of not to exceed 60 days to submit'' its response. As FRA has always considered the period to begin to run when service of the notice on the railroad was complete, the practical effect of the proposed change is to

clarify the existing time allowed for a railroad's response, but not to substantively change the existing requirement. Of course, even if a railroad's response is late, § 240.405(c) provides that the OCRB will consider the response ''to the extent practicable.'' FRA is not proposing to change this provision, which is the same as in the conductor certification rule. *See* § 242.505(c). However, as the OCRB has significantly reduced the amount of time it takes to consider a case, railroads are on notice that the windows for submitting late filings are closing more quickly than in the past.

In the current and proposed paragraph (c) requirements, railroads are offered the opportunity to ''submit to FRA any information that the railroad considers pertinent to the petition.'' The railroad, therefore, has a duty to ensure the documents that formed the basis for its decision are submitted for Board review. Even if a railroad chooses not to submit a response to the petition, it should review the documents submitted to the electronic docket. FRA also recommends that a railroad representative sign up to receive ''email alerts'' so the railroad will be notified whenever anything is added to the docket. A railroad may choose to submit missing documents, color photos, videos, and other evidence provided as the basis for its decision that may be missing from the docket, even if the railroad chooses not to file a response that rebuts the petitioner's assertions that the railroad's decision was improper.

FRA proposes to revise paragraph (d)(1) to require railroads to provide FRA with an email address if available. Each railroad should note that if FRA receives an email address, it should expect to receive email service from FRA regarding the case. As proposed, and consistent with FRA's handling of petitions under Part 242, FRA would be under no duty to serve by both email and by regular mail.

FRA proposes to revise paragraph (d)(2) to clarify that a railroad must serve a copy of its response on the petitioner and the petitioner's representative, if any. Existing paragraph (d)(2) only requires railroads to provide a copy to the petitioner, even though most railroads know to also serve a copy on a petitioner's representative.

FRA proposes to revise paragraph (d)(3) to require a railroad to submit its response to a petition to the DOT Docket Clerk rather than FRA's Docket Clerk as the paragraph currently requires. FRA believes this change will make the process more efficient as the DOT Docket Clerk is best equipped to process, scan, and store these types of filings. In addition, as noted above, filings in OCRB proceedings will become more accessible because they will be posted on *www.regulations.gov.* Another significant proposed change to this paragraph would eliminate the existing requirement for a railroad to file three copies of its response. As the DOT dockets are electronic, there would no longer be a need for FRA to mail one copy to the railroad, keep one copy in the docket, and use the third copy as a working copy for the OCRB. FRA expects that this change would reduce copying expenses for both parties by not having to file in triplicate, and may also reduce the amount of time it takes to file a petition. In addition, most parties currently send their petitions by overnight courier service, and filing electronically carries no additional cost if the party already pays for internet access and thus will save petitioners the overnight courier service costs.

FRA proposes to revise paragraph (e) to identify the OCRB as the reviewing board, not the LERB, and FRA likewise proposes to revise paragraph (f) to explain the authority of the OCRB. Specifically, proposed paragraph (f) provides that the Board will have the authority to ''grant, deny, dismiss, or remand'' a petition. This is not a substantive change from existing Part 240, but FRA proposes to add this specific language here to make the language the same as that in § 242.505(e) and to clarify the OCRB's authority. If the Board grants a petition, then the petitioner has received a favorable ruling. If the Board denies a petition, then the railroad has received a favorable ruling. The Board will dismiss cases falling outside its jurisdiction. For example, if an engineer's certification is suspended and the railroad has not yet revoked the individual's certification, the case is not ripe for the Board to hear and the Board will issue a dismissal decision. Also, if the petition does not meet all the requirements of § 240.403, the Board may dismiss the petition. The Board has the authority to remand a case back to the railroad for a new decision. As the LERB has historically done, the Board will typically remand a case back to the railroad when both parties have failed to address an important factual issue and there is a reason to reopen the railroad's investigation and present evidence on that issue. Obviously, if the railroad is presenting new evidence on an issue it has not previously addressed or needs to clarify, a petitioner should be provided with a new opportunity for a written rebuttal in a denial case or an opportunity to examine witnesses and evidence at a railroad hearing in a revocation case. A remand could also be warranted in a case involving a denial of certification or recertification where the petitioner has raised a potentially legitimate defense that was not addressed by the railroad's decision; in such cases, the Board expects a railroad to fully consider the defense raised in a new or supplemental decision. Of course, when the Board remands a denial case back to a railroad for a new or supplemental decision, the railroad is not obligated to deny the person certification or recertification again as it may reverse its prior denial decision.

In proposed paragraph (g), FRA provides that if there is an insufficient basis for deciding the petition, the Board will issue an order affording the parties an opportunity to provide additional information or argument.

To conform Part 240 with Part 242 and to address a concern of some RSAC Working Group members that railroads and petitioners would not know what standards of review the OCRB would use in considering petitions, FRA proposes to add paragraphs (h) through (j) to this section. Included in those proposed new paragraphs are the standards of review that the OCRB will utilize when considering a petition. Those standards are exactly the same standards currently used by the LERB to review locomotive engineer petitions under the existing engineer certification regulation.

Like the LERB currently does under existing paragraph (f) of this section, the OCRB would determine only whether a railroad's decision was improper. Although this requirement is found in existing paragraph (f), this rule proposes to redesignate paragraph (f) as new paragraph (k). If a railroad-conducted hearing were so unfair that it causes a petitioner substantial harm, the OCRB could grant the petition; however, the OCRB's review is not intended to correct all procedural wrongs committed by a railroad. Further, like the LERB, the OCRB's authority would be limited to approving the railroad's decision, overturning the railroad's decision, or returning the case to the railroad for additional fact finding. The OCRB would not be empowered to mitigate the consequences of a railroad's decision that was validly made under this regulation. The OCRB is only empowered to make determinations concerning certifications under Part 240. The contractual consequences, if any, of these determinations would have to be resolved, as they currently are, under dispute resolution mechanisms

that do not directly involve FRA. For example, FRA cannot order a railroad to alter its seniority rosters or make an award of back pay to accommodate a finding that a railroad wrongfully denied certification.

FRA notes this proposed rule would necessarily require the OCRB to determine whether a railroad revoked the correct certificate of an individual who holds both an engineer and conductor certification. For example, in a case in which a railroad finds that an individual who holds both a conductor and engineer certification violated a railroad rule involving a failure to comply with § 218.99 (*i.e.,* a Part 218, subpart F violation) but revoked that person's engineer certification, the OCRB, if petitioned, would have to find that the revocation decision was improper because, currently, an engineer cannot have his or her Part 240 certification revoked for violations of Part 218, subpart F.

New paragraph (l) of this section would require the OCRB's written decision to be ''served'' on the petitioner as opposed to the existing paragraph (g) requirement that ''[n]otice of that decision will be provided in writing.'' This proposed revision is not a substantive change, but instead is intended to standardize the terminology used in Part 240 and make the language the same as that of § 242.505(l). Although existing § 240.405 does not require FRA to provide notice of the LERB's decision to a petitioner's representative, if any, FRA's past practice has been to do so. In new paragraph (l) of this section, FRA proposes to make the practice of serving a petitioner's representative mandatory, if the petitioner has a representative. Moreover, the proposed language in new paragraph (l) removes the requirement that every decision include findings of fact, which may not be appropriate or relevant to some decisions.

Further, under proposed paragraph (l), a party that has provided an email address under § 240.403(b)(3) voluntarily consents to be served documents, including the OCRB's decision, by email. Petitioners should note that if FRA receives an email address, FRA's preference may be to serve all correspondence regarding the petition or case by email. Currently, FRA serves a copy of each decision by mail, even if it has the email addresses for all the parties. Thus, the actual practice has not yet caught up with the flexibility built into the existing regulation. In the near future, potentially before implementation of this rule if it becomes final, FRA intends to begin serving the OCRB notices, orders, and decisions by email to those parties that have provided an email address. A party to a case may also serve another party by email if the email was provided in the petition or railroad's response filing. However, while electronic service is a proper method of service, each party performing service is responsible for knowing that, under Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure (FRCP), service ''is not effective if the party making service learns that the attempted service did not reach the person to be served.'' *See* § 240.7 (defining ''service'' as having the same meaning as Rule 5 of the FRCP).

FRA also notes that recent amendments to FRCP Rule 5, effective December 1, 2018, recognize the benefits of electronic-filing systems, such as the one the OCRB uses found at *www.regulations.gov.* Once a petition is filed and receives a docket number, the parties and the Board will benefit as the filing process will be considered service and no certificate of service will be necessary unless a party opts out of using the electronic-filing system. FRA plans to explain this process to each party in the FRA Docket Clerk's letters issued upon receipt of a petition.

Section 240.407 Request for a Hearing

Existing § 240.407 provides that a party adversely affected by a LERB decision has the opportunity to request an administrative hearing under § 240.409. FRA proposes to make minor revisions to this section to make the language the same as the corresponding provision in Part 242 (§ 242.507). Specifically, FRA proposes to revise the section to indicate that the OCRB would replace the LERB and to require that a party requesting an administrative hearing provide an email address if available. Proposed paragraph (a) substitutes the OCRB for the LERB.

Existing paragraph (c) provides that the LERB's decision will constitute final agency action if a party does not request a hearing under § 240.407. FRA proposes to revise this paragraph to substitute the OCRB for the LERB and also make certain minor edits for clarity that do not change the substance of the existing paragraph.

Existing paragraph (d) contains the minimal requirements for a written request submitted under this section. FRA proposes to revise paragraph (d)(1) to require a party requesting a hearing to provide an email address if available. The AHO currently encourages the parties to provide their email addresses and the existing practice has been so widely accepted that it is rare for a party before the AHO to serve filings on other parties in any manner but by email. Again, the practice of permitting service by email reduces the parties' costs for printing, copying, mailing, and creating or retaining receipts. It also provides service much more quickly than by mail or courier service, which are the other most frequently used forms of service.

Section 240.409 Hearings

Existing § 240.409 describes the authority of the presiding officer to conduct an administrative hearing and the procedures by which the administrative hearing will be governed. FRA proposes minor revisions to this section to make the language the same as that in the corresponding provision of Part 242 (§ 242.509). Proposed paragraph (a) would substitute the word ''certification'' for ''qualification'' without making any practical change in the way in which this requirement is applied; however, the change would clarify that an administrative hearing is based on a certification petition, and not some lesser qualification issue.

Proposed paragraphs (p) and (q) substitute the review board's new name, the OCRB, for the existing name, the LERB.

Section 240.411 Appeals

Existing § 240.411 permits any party aggrieved by the presiding officer's decision to file an appeal with the FRA Administrator. FRA proposes to revise this section to make it the same as the corresponding provision in Part 242 (§ 242.511). Specifically, FRA proposes to amend existing paragraphs (a) and (f) to indicate that appeals to the FRA Administrator must be filed with both the Administrator and the DOT Docket Clerk. This change would conform the paragraphs with § 242.511(a) and (f), and ensure that all filings, in any Part 240 FRA dispute resolution proceeding (*i.e.* the OCRB, the AHO, and the Administrator), are kept in the same docket. These paragraphs also maintain the requirement that a copy of the appeal must be served on each party, which means that the party filing the appeal should serve each person named on the service list of the decision issued by the AHO.

FRA also proposes to revise paragraph (f) of this section to clarify the review board's proposed new name (*i.e.,* the OCRB) and the updated citation for an appeal from an OCRB decision regarding timeliness of a petition. The existing citation is found at § 240.403(e), and this proposed rule would change that citation to paragraph (d) of that section. Consistent with existing § 240.411, proposed paragraph (f) also clarifies that such an appeal must be

filed within 35 days of the OCRB's issuance of its decision. By adding the time limit in this proposed paragraph, FRA intends to help readers understand that the time limit for filing such an appeal is the same as for filing other appeals to the Administrator under paragraph (a).

Appendix A

Currently appendix A to Part 240 (Appendix A) contains the schedule of civil penalties for violations of Part 240. In the final rule, Appendix A would contain a revised penalty schedule similar to the schedules that FRA has issued for all of its existing rules. Because such penalty schedules are statements of policy, notice and comment are not required prior to their issuance. *See* 5 U.S.C. 553(b)(3)(A). Nevertheless, FRA invites interested parties to submit comments regarding this revised penalty schedule.

One issue FRA is likely to address in the final rule is the penalty schedule description for § 240.231. The descriptions for paragraphs (a) and (b) are not sufficiently different that it can be confusing which is the proper citation and garden variety penalty. FRA reads the guideline as if paragraph (a) is the more significant violation and occurs when an engineer operates over a territory in violation of the railroad's certification program with no type of pilot. Paragraph (b) is read by FRA as the lesser violation, when the wrong type of pilot is provided. Thus, FRA intends to change the guideline for paragraph (b) from ''Failure to have a pilot'' to ''Pilot provided, but the pilot is unqualified.''

Appendix B

Existing Appendix B provides both the organization requirements and a narrative description of the submission required under §§ 240.101 and 240.103. FRA proposes a number of revisions to update job titles and clarify requirements in Appendix B and FRA proposes to revise the Appendix to provide railroads with the option to file their Part 240 program submissions electronically. The option to file programs electronically is currently provided to railroads submitting conductor certification programs. *See* Part 242, Appendix B.

As it did for Part 242, FRA intends to create a secure document submission site and will need basic information from each railroad before setting up the railroad's account. In order to provide secure access, FRA requires information on a railroad's appropriate points of contact. FRA anticipates being able to approve or disapprove all or part of a program and generate automated notifications by email to a railroad's points of contact. Thus, FRA wants each point of contact to understand that by providing any email addresses, the railroad is consenting to receive approval and disapproval notices from FRA by email. Railroads allowing FRA to provide notice by email would gain the benefit of receiving such notices quickly and efficiently.

Railroads choosing to submit printed materials to FRA must deliver them directly to the specified address. FRA would discourage railroads from delivering removable media such as a CD, DVD, memory stick, or other electronic storage format to FRA rather than requesting access to upload the documents directly to the secure electronic database. CDs or DVDs may become damaged in the mail or mail scanning process. Rather, FRA will encourage railroads to utilize the electronic submission capabilities of the system. Of course, if FRA does not have the capability to read the type of electronic storage format sent, FRA can reject the submission.

Given the nature of the information required in a railroad's Part 240 program and the proposed requirement for railroads to share their program submissions, resubmissions, and material modifications with the relevant labor organization(s) representing each railroad's certified engineers (*see* § 240.103(b)), FRA does not believe it is necessary to develop a secure document submission system to handle confidential materials because FRA does not meaningfully expect there to be confidential materials. A railroad's program required by this part is not likely to contain copies of training materials that a railroad might want to keep confidential. If a railroad believes it must submit information that FRA should keep confidential, it may request confidential treatment under FRA's general procedures at 49 CFR 209.11.

Appendix C

Existing appendix C to Part 240 (Appendix C) provides a narrative discussion of the procedures that a person seeking certification or recertification will have to follow to furnish a railroad with information concerning his or her motor vehicle driving record. FRA proposes revisions to Appendix C to acknowledge that a driver's license may be issued by a state agency or a foreign country and to remove language about the number of state licensing agencies that have the capacity to make a direct NDR inquiry.

Appendix D

Existing Appendix D to Part 240 (Appendix D) addresses Part 240's requirements that each person seeking certification or recertification as a locomotive engineer must request that a check of the NDR be conducted and that the resulting information be furnished to his or her employer or prospective employer. Some RSAC Working Group members recommended adding a sentence to Appendix D stating that once an employee makes a valid request for the information required by § 240.111, his or her duty to comply with this requirement is satisfied. FRA declines to propose this recommendation because it would interfere with the requirements of § 240.111(a)(2) and (f)(2), which require employees to take any additional actions, including providing any necessary consent required by State, Federal, or foreign law to make information concerning his or her driving record available to a railroad.

Appendix G

FRA proposes to add appendix G to Part 240 to provide a table that explains in spreadsheet-style form, when an individual certified as both an engineer and conductor will be permitted to work following a certification revocation. The same table is found in appendix E to Part 242.

III. Additional Issues

A. Additional Amendments

Although the Section-By-Section Analysis contains descriptions of many minor revisions proposed in this NPRM, the descriptions may not have captured every specific change. In addition to the proposed changes discussed above, FRA is proposing to make some minor revisions to fix grammatical errors, typographical errors, reference errors, and superfluous language and citations. These revisions, provided in ''The Proposed Rule'' section of this rulemaking, include the following sections: 240.11(d); 240.207(b); 240.209(b) and (c); 240.211(b); 240.215(e); 240.217(a) and (d); 240.225(b); 240.305(b)(2); 240.307(g); 240.307(i); 240.309(b)(4); 240.309(e)(1), (2), (8), and (9); and Appendix D.

B. Implementation Date

FRA understands railroads will require some time to incorporate into their Part 240 programs the changes proposed in this rulemaking and submit their entire revised programs to FRA for

review.[11] FRA is also aware that it would not be fair to change the time limits for a filing (*e.g.,* changing the time limits for filing a denial of certification petition with the OCRB from 180 days to 120 days in § 240.403) in cases whose time limits have already started to run. Accordingly, FRA invites comments on what an effective date for the final rule should be that will treat all parties affected by this rule fairly.

IV. Regulatory Impact and Notices

A. Executive Orders 12866 and 13771 and DOT Regulatory Policies and Procedures

This proposed rule is a non-significant regulatory action and has been evaluated in accordance with existing policies and procedures under Executive Order 12866 and DOT policies and procedures. 44 FR 11034, Feb. 26, 1979; 58 FR 51735, Oct. 4, 1993. The rule is non-significant because the economic effects of this proposed regulatory action would not exceed the $100 million annual threshold defined by E.O. 12866 and the effects of this proposed regulatory action would not be of substantial public interest in transportation safety. This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated costs and costs savings of this proposed rule can be found in the rule's economic analysis.

The primary purpose of the proposed rule is to reduce the differences between FRA's two operating crew certification regulations. The proposed rule would amend Part 240 by adopting processes that are more efficient. Some of the proposed amendments address the Part 240 certification review and program submission processes. Other proposed changes reduce the burden on the regulated community by addressing compliance difficulties noted through experience enforcing Part 240. Furthermore, some proposed changes would codify long-standing agency interpretations of whether a railroad or individual meets and maintains compliance with Part 240 requirements.

FRA has prepared and placed in the docket (Docket No. FRA–2018–0053) a regulatory evaluation. The regulatory evaluation details estimated costs and costs savings that the railroads regulated by the proposed rule are likely to incur over a twenty-year period. The table below summarizes the costs, cost savings, and net cost savings that would come from issuing the proposed rule. The total cost of the proposed rule over 20 years would be $166,054 (PV 7%), and $194,843 (PV 3%). The total cost savings of the proposed rule over 20 years would be $6.1 million (PV 7%), and $8.6 million (PV 3%). The net cost savings of the proposed rule over 20 years would be $6.0 million (PV 7%), and $8.4 million (PV 3%).

TABLE 1—SUMMARY OF THE PROPOSED RULE'S TOTAL NEW COSTS, TOTAL COST SAVINGS, NET COST SAVINGS (TWENTY-YEAR PERIOD), PV, 7-PERCENT AND PV 3-PERCENT

Cost of proposed rule	Present value 7%	Annualized 7%	Present value 3%	Annualized 3%
New Costs:				
Review amendments	$104,929	$9,905	$109,003	$7,327
Serve copy of part 240 plan on labor	1,199	113	1,683	5,657
Maintain service records	59,927	5,657	84,157	5,657
Total new costs	166,054	15,675	194,843	13,097
Cost Savings:				
Conforming part 240 to part 242	5,947,136	561,368	8,351,732	561,368
Former employee paperwork	59,927	5,657	84,157	5,657
Removing waiver requirement	58,066	5,481	81,543	5,481
Petition submission process	3,602	340	5,058	340
Plan submission process	59,927	5,657	84,157	5,657
Total cost savings	6,128,658	578,502	8,606,648	578,502
Net Cost Savings	5,962,604	562,828	8,411,804	565,405

The proposed rule would create benefits, though FRA did not monetize them. Some non-quantifiable benefits include: Affording railroads with additional time and flexibility to comply with some regulatory requirements, and creating certain provisions that allow for temporary locomotive engineer certificates. For example, the amendments to § 240.103 would afford railroads with an additional 30 days, increasing from 30 days to 60 days, for which a railroad would have to submit a description of its intended material modification to its Part 240 plan. This additional time to respond to FRA amounts to an unquantified benefit to the railroad. In addition, the amendments to § 240.115 would allow for a temporary certification lasting 60 days for individuals who have properly requested motor vehicle operator information needed to certify or recertify as a locomotive engineer. Such temporary certifications amount to an unquantified benefit to workers and railroads. That is, under the amendments to § 240.115, workers may begin work as a locomotive engineer sooner and railroads would have available a larger pool of workers who would be qualified to work as locomotive engineers.

The regulatory evaluation compares the proposed rule's costs and benefits, and estimates the proposed rule would be cost beneficial because the rule is expected to provide net cost savings and benefits, though the benefits are not quantified.

B. Regulatory Flexibility Act and Executive Order 13272; Initial Regulatory Flexibility Assessment

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) and Executive Order 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to examine their impacts on small entities. An agency must prepare an initial regulatory flexibility

[11] As discussed above, FRA is considering requiring the railroads to file their complete Part 240 programs, with modifications, with FRA and serve the programs on the president of each labor organization that represents the railroad's certified locomotive engineers.

analysis (IRFA) unless it determines and certifies that a rule, if issued, would not have a significant economic impact on a substantial number of small entities. As discussed below, FRA does not believe this proposed rule would have a significant economic impact on a substantial number of small entities. However, FRA is publishing this IRFA to obtain public comments about the potential small business impacts that would follow from issuing this NPRM. FRA invites all interested parties to submit data and information regarding the potential economic impact on small entities that would result from the adoption of the proposals in this NPRM. FRA will consider all information, including comments received in the public comment process, to determine whether the rule will have a significant the economic impact on small entities.

For the railroad industry over a 20-year period, FRA estimates that issuing the proposed rule would result in new costs of $166,054 (PV 7%) and $194,843 (PV 3%). Based on information currently available, FRA estimates that $94,062 (PV 7%) and $102,183 (PV 3%) of the total costs associated with implementing the proposed rule would be borne by small entities. Therefore, less than 60 percent of the proposed rule's total cost would be borne by small businesses. In addition, FRA estimate that the proposed rule would result in cost savings over 20 years of $6.1 million (PV 7%), and $8.6 million (PV 3%). In total, FRA estimates that the proposed rule would result in net cost savings of $6.0 million (PV 7%), and $8.4 million (PV 3%). FRA expects that small entities would accrue 94 percent of the cost savings associated with implementing the proposed rule.

Any railroad who employs locomotive engineers and does business on the general railroad system would be affected by the proposed rule. The regulatory evaluation, which has been placed in the docket for this rulemaking, estimates that the proposed rule would affect approximately 696 railroads including 7 Class I railroads, 11 Class II railroads, 33 passenger railroads, and 645 Class III railroads that perform services on the general railroad system. FRA estimates that approximately 645 out of 696 of these railroads are considered small entities for the purpose of this analysis. However, FRA believes that the issuing proposed rule, as measured by total employees, would impact a minor percentage of a railroad's operations. In addition, issuing the proposed rule is expected to result in cost savings that would exceed costs.

In accordance with the Regulatory Flexibility Act, this IRFA must contain:

1. A description of the reasons why action by the agency is being considered.

2. A succinct statement of the objectives of, and the legal basis for, the proposed rule.

3. A description—and, where feasible, an estimate of the number—of small entities to which the proposed rule will apply.

4. A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

5. Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

1. Reasons for Considering Agency Action

FRA is considering action to reduce burden on industry stakeholders. The existing locomotive engineer certification regulation includes dated processes such as requiring paper document submissions. For example, the existing Part 240 prohibits use of electronic submissions. In addition, FRA's two operating crew certification regulations (Part 240 and Part 242) lack similarity regarding compliance requirements, which adds a layer of complexity for railroads related to maintaining compliance with both regulations. In direct response to the current lack of conformity between these two regulations, the proposed rule would amend the Part 240 regulation by adopting the Part 242 regulation's streamlined processes developed 20 years after the Part 240 regulation. Therefore, an important purpose of the proposed amendments is to add clarity and conformance between FRA's two operating crew certification regulations and address existing inefficiencies related to the Part 240 program submission process.

Other proposed changes would reduce the burden on the regulated community by addressing compliance difficulties noted through experience enforcing the locomotive engineer certification rule. The proposed rule would codify long-standing agency interpretations of whether a railroad or individual meets and maintains compliance with FRA's locomotive engineer certification requirements. Therefore, the proposed rule would result in consistency in the process, procedure, and criteria between Part 240 and Part 242, which would lead to an overall reduction in the burden on the railroad industry. The proposed rule would create provisions that would allow railroads to issue temporary locomotive engineer certificates, which would increase labor market flexibility. The proposed rule would also extend the time railroads may rely on an employee's visual and hearing examinations.

2. A Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The primary purpose of the proposed rule is to reduce burden on industry stakeholders by reducing the differences between FRA's two operating crew certification regulations. The proposed rule would amend Part 240 by adopting processes that are more efficient. Some of the proposed amendments address the Part 240 certification review and program submission processes. Other proposed changes reduce the burden on the regulated community by addressing compliance difficulties noted through experience enforcing Part 240. Furthermore, some proposed changes would codify long-standing agency interpretations of whether a railroad or individual meets and maintains compliance with Part 240 requirements.

The Secretary of Transportation (Secretary) has broad statutory authority to ''prescribe regulations and issue orders for every area of railroad safety.'' *See* 49 U.S.C. 20103. The Secretary delegated these authorities to the Federal Railroad Administrator (Administrator). *See* 49 CFR 1.89(a). Under this same authority, FRA would issue the proposed rule to further amend the locomotive engineer certification requirements.

President Trump issued E.O. 13771 on January 30, 2017. E.O. 13771 seeks to ''manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations'' and directs each executive department or agency to identify for elimination two existing regulations for every new regulation issued. In response to E.O. 13771, FRA initiated a review of its existing regulations with the goal of identifying those it could amend or eliminate to reduce the overall regulatory, paperwork, and cost burden on entities subject to FRA jurisdiction. FRA identified Part 240 as a regulation that FRA could amend and thereby reduce the railroad industry's overall regulatory, paperwork, and cost burden without affecting safety on the nation's railroad system and, at the same time, benefit individual locomotive engineers.

3. Descriptions and Estimates of Small Entities to Which the Proposed Rule Would Apply

The proposed rule would affect approximately 696 railroads including 7 Class I railroads, 11 Class II railroads, 645 Class III railroads, and 33 passenger railroads.[12] The universe of the entities considered in an IRFA generally includes only those small entities that can reasonably expect to be directly regulated by the proposed action. Based on FRA's established size standards, only Class III railroads (645) are small entities, which may be potentially affected by this proposed rule.

A ''small entity'' is defined in 5 U.S.C. 601(3) as having the same meaning as ''small business concern'' under sec. 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Title 49 U.S.C. 601(4) likewise includes within the definition of small entities non-profit enterprises that are independently owned and operated, and are not dominant in their field of operation.

The U.S. Small Business Administration (SBA) stipulates in its size standards that the largest a ''for-profit'' railroad business firm may be, and still be classified as a small entity, is 1,500 employees for ''line haul operating railroads'' and 500 employees for ''switching and terminal establishments.'' Additionally, 5 U.S.C. 601(5) defines as small entities governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final Statement of Agency Policy that formally establishes small entities or small businesses as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1, which is $20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. *See* 68 FR 24891, May 9, 2003 (codified as appendix C to 49 CFR part 209). The $20 million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1–1. This definition is what FRA is proposing to use for the rulemaking.

All railroads that do business on the general railroad system would have to comply with the proposed amendments to Part 240. FRA believes that the amount of effort to comply with the proposed rule, or new costs borne on railroads, is positively correlated with the size of the entity. In addition, FRA concluded that the proposed rule is expected to be deregulatory, which means issuing the proposed rule should result in each affected entity, including small entities, accruing cost savings greater than any new costs.

4. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule

There are reporting, recordkeeping, and compliance costs associated with the proposed regulation. FRA believes that the added burden is marginal due to the proposed NPRM requirements. The total 20-year cost of this proposed rulemaking is $166,054 (PV 7%), and $194,843 (PV 3%), of which FRA estimates $94,062 (PV 7%), and $102,183 (PV 3%), will be attributable to Class III railroads (small entities).[13] Based on FRA's regulatory evaluation, which has been placed in the docket for this proposed rulemaking, the average Class III railroad would incur a burden of $146 (PV 7%), and 158 (PV 3%). Most of this burden falls in the first year of analysis, where the average Class III railroad would incur a burden of $129 (PV 7%), and $134 (PV 3%). In each subsequent year, the average Class III railroad would incur no burden or a marginal burden that comes from serving the labor union president with a material modification of a railroad's Part 240 plan or maintaining service records. For example, each year about 20 Class III railroads would incur a burden of 5 minutes related to serving the labor union president with a material modification of the railroad's Part 240 plan. For each of these 20 Class III railroads, the quantified burden amounts to $5 (PV 7%) and $5 (PV 3%) in year two, $5 (PV 7%) and $5 (PV 3%) in year three, and a similar amount in each subsequent year during the period of analysis. In addition, each year about 200 Class III railroads would incur a burden of 5 minutes related to maintaining service records. For each of these 200 Class III railroads, the quantified burden amounts to $5 (PV 7%) and $5 (PV 3%) in year two and $5 (PV 7%) and $5 (PV 3%) in year three. Collectively, Class III railroads would incur a similar burden in each subsequent year thereafter during the period of analysis.

Previously, FRA sampled small railroads and found that revenue averaged approximately $4.7 million (undiscounted) in 2006. One percent of average annual revenue per small railroad, or $47,000, is more than 5,222 times the average annual cost that these railroads would incur because of this proposed rule. FRA realizes that some railroads would have lower revenue than $4.7 million. However, FRA believes that this average provides a good representation of the small railroads, in general.

In addition, FRA estimates that the proposed rule would result in cost savings of $6.1 million (PV 7%), and $8.6 million (PV 3%). Based on FRA's regulatory evaluation the average Class III railroad (small entity) would accrue a cost savings of $7,248 (PV 7%), and $10,178 (PV 3%), over the 20-year period of analysis.

Overall, FRA believes that the proposed regulation would not be a significant economic burden for small entities. FRA expects that most of the skills necessary to comply with the proposed regulation would be recordkeeping and reporting personnel.

The following section outlines the potential additional burden on small railroads for each amendment of the proposed rule:

- Familiarization of Amendment to Part 240 Regulation (All Sections)

Because the proposed rule would amend Part 240, each locomotive engineer certification manager would need to review these amendments to ensure their railroad maintains compliance with the amended Part 240. This analysis estimates that on average each of the 645 Class III railroads employ one locomotive engineer certification manager. This analysis estimates that each locomotive certification manager would spend two hours reviewing the amendments to Part 240. This cost would be a one-time cost that would occur in the first year following the proposed rule's effective date. For the 20-year period of analysis, the cost for locomotive certification managers who are employed by a Class III railroad (small entity) to become familiar with amendments to Part 240 is

[12] Estimates are based on the FRA 2017 Railroad Classification Data. Class III numbers include railroads on the general railroad system.

[13] Class III railroads, total new costs (undiscounted) = familiarization of amendments + serve labor representative + maintain service records = $87,565 + $453 + $22,627 = $110,645 (as described later in this section).

$81,837 (PV 7%), and $85,015 (PV 3%).[14]

• Amending the Part 240 Program Submission Process To Require Railroads To Serve Program Submissions on Relevant Labor Organization Presidents (§§ 240.101 Through 240.103)

FRA proposes revising paragraphs (b) and (c) of this section to require railroads to serve a copy of their program submissions, resubmissions, and material modifications on the president of each labor organization that represents the railroad's certified locomotive engineers. The proposed rule would require railroads to serve program submissions on relevant labor organization presidents, while the current locomotive engineer certification rule does not. Therefore, the proposed rule would create a new cost associated with requiring each railroad to contact the president of each labor organization related to Part 240 program submission.

This analysis assumes the number of locomotive engineer labor representatives for which a railroad interacts with depends on a railroad's size. FRA assumes that on average each Class III railroad interacts with one labor representative. This analysis assumes that railroads can simultaneously serve presidents of labor organizations by carbon copying the labor organization president(s) when emailing their Part 240 program to FRA. As such, this analysis estimates the time burden to serve a president of a labor organization is five minutes. Based on a review of Part 240 submissions, this analysis estimates that each year Class III railroads will serve four plan submissions on a president of a labor organization. Therefore, the cost for railroads to notify the president of labor organizations is $21 (PV 7%), and $22 (PV 3%), in year one, and 20 (PV 7%), and $21 (PV 3%), in year two. Collectively, Class III railroads would incur a similar burden in each subsequent year thereafter during the period of analysis. For the 20-year period of analysis, the cost for Class III railroads (small entity) to serve Part 240 programs on the presidents of labor organizations is $240 (PV 7%), and $337 (PV 3%).

[14] Familiarization cost for Class III railroads, year one (PV 7%) = [(number of Class III railroads (645) * average number of certification managers per Class III railroad (1) * average review time per certification manager (2 hours) * certification manager compensation rate ($67.88)]/(7% discount rate in year 1) = [645 * 1 * 2 * $67.88]/(1.07) = $87,565/(1.07) = $81,837.

• Maintain Certification Records of Certified Locomotive Engineers not Performing Service Requiring Locomotive Engineer Certification (§ 240.129)

Proposed § 240.129(b)(2) would require a railroad intending to avoid conducting an operational monitoring observation or an unannounced compliance test on a certified engineer not performing service requiring certification to retain a written record documenting certain dates regarding a locomotive engineer's service to prove that the locomotive engineer met the exception in proposed paragraph (h). This is the same recordkeeping requirement as in § 242.123(b)(2). FRA believes that most railroads already maintain such locomotive engineer service records. Therefore, there are no costs associated with this requirement.

Existing § 240.129 requires a railroad to have procedures for monitoring the operational performance of locomotive engineers. Specifically, in each calendar year, § 240.129 requires railroads to administer both an operational monitoring observation and an unannounced compliance test to each locomotive engineer. The proposed rule would amend § 240.129 to provide the same flexibility as in Part 242 to conduct monitoring outside of the calendar year requirement when a certified person is not performing service requiring certification. *See* § 242.123(f). For example, a certified engineer may be on furlough, in military service, on leave with an extended illness, or working in another capacity for the railroad. Existing § 240.129 requires railroads to seek a waiver from FRA for each locomotive engineer who is not available to complete testing requirements within a calendar year. In other words, the proposed amendments would remove the requirement for railroads to seek a waiver from FRA from the requirement for railroads to administer unannounced compliance tests or operational monitoring observations to locomotive engineers who are not performing service requiring locomotive engineer certification. However, the proposed § 240.129(b)(2) would require a railroad intending to avoid conducting an operational monitoring observation or an unannounced compliance test on a certified engineer who is not performing service requiring certification to retain a written record documenting certain dates regarding a locomotive engineer's service to prove that the locomotive engineer met the exception in proposed paragraph (h). This is the same recordkeeping requirement as in § 242.123(b)(2) and amounts to a new time burden.

Because railroads already maintain detailed employment records, this new time burden due to documenting certain dates of a locomotive engineer's service is one line in a database, *i.e.,* a time burden of about five minutes per engineer. This analysis estimates that each year there will be approximately 200 certified locomotive engineers who are on the payroll of a Class III railroads, but not currently working or not performing service that would require locomotive engineer certification. The cost for Class III railroads to document locomotive engineers who are not performing service requiring locomotive engineer certification is $1,057 (PV 7%), and $1,098 (PV 3%), in year two, and $988 (PV 7%), and $1,066 (PV 3%), in year three.[15] For the 20-year period of analysis, the cost for Class III railroads to document locomotive engineers who are not performing service requiring locomotive engineer certification is $11,985 (PV 7%), and $16,831 (PV 3%).

• Market and Competition Considerations

The railroad industry has several significant barriers to entry, such as the need to own or otherwise obtain access to rights-of-way and the high capital expenditure needed to purchase a fleet, as well as track and equipment. Furthermore, the small railroads under consideration would potentially be competing only with the trucking industry and typically deal with the transport of commodities or goods that are not truck-friendly. Thus, while this proposed rule would have an economic impact on all railroads doing business on the general railroad system, it should not have an impact on the competitive position of small railroads.

FRA requests comment on these findings and conclusions.

5. Identification of Any Duplicative, Overlapping, or Conflicting Federal Rules

FRA is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

FRA invites all interested parties to submit data and information regarding the potential economic impact that would result from adoption of the

[15] Class III railroad cost for maintaining certification records given break in service, year one (PV 7%) = [average annual number of locomotive engineers with break in service (200) * time burden to maintain record (5 minutes or 0.083 hours) * certification manager compensation rate ($67.88)] (year 1 present value 7% discount rate) = $1,131/(1.07) = $1,057.

proposals in this NPRM. FRA will consider all comments received in the public comment process when making a determination.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule are being submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The sections that contain the new information collection requirements are duly designated, and the estimated time to fulfill each requirement is as follows:

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hours dollar cost equivalent
240.9—Waivers—Petitions for Waiver	696 railroads	3 petitions	90 minutes	5	$339
240.101/103—Certification Program: Written program for certifying qualifications of locomotive engineers—amendments.	696 railroads	150 amended programs.	1 hour	150	10,182
—Certification programs for new railroads	20 railroads	20 new programs	40 hours	800	54,304
—New railroads final review and submission of certification program.	20 railroads	20 reviews	1 hour	20	1,358
—RR provision of copy of certification program submission or resubmission to president of labor organizations representing employees simultaneously with filing with FRA (Revised Requirement).	696 railroads	750 copies	5 minutes	63	4,276
—RR affirmative statement that it has served certification program copy to labor organizations (Revised Requirement).	696 railroads	750 averred statements.	20 minutes	250	16,970
—Employee comment on submission, resubmission or material modification of RR certification program (Revised Requirement).	696 railroads	25 comments	40 hours	1,000	55,250
—FRA determination that program does not conform and RR revision of certification program.	696 railroads	25 revised programs.	4 hours	100	6,788
—RR submission of revised program within 30 days of FRA notice of deficiencies and FRA disapproval of revised program.	696 railroads	5 resubmitted programs.	4 hours	20	1,358
—RR material modifications to program after initial FRA approval.	696 railroads	75 modified programs.	45 minutes	56	3,801
240.105—Selection criteria for designated supervisors of locomotive engineers (DSLEs)—examinations of DSLEs.	696 railroads	50 exams	1 hour	50	2,894
—Written report by railroad Chief Operating Officer of testing of DSLE.	10 railroads	10 reports	1 hour	10	679
240.109—Candidate's review and written comments on prior safety conduct data.	26,000 candidates.	40 responses	1 hour	40	2,210
240.111—Request for state driving data and National Driver Register Data (NDR): Driver's license data requests from chief of driver licensing agency of any jurisdiction, including foreign countries (Revised Requirement).	26,000 candidates.	26,000 requests	15 minutes	6,500	441,220
—Employee written request for a copy of available information after being advised by RR that additional information on person's driving history may exist in files of a State agency or foreign government (Revised Requirement).	696 railroads	125 notices + 125 requests.	2 hours + 1 hour	375	20,719
—RR Notification of NDR match and employee request to State agency for relevant data.	696 railroads	260 notices + 260 requests.	15 minutes + 15 minutes.	130	8,003
—Written response to RR from candidate on driver's license record.	696 railroads	20 comments	30 minutes	10	553
—Notice to Railroad of Absence of License	696 railroads	6 letters	15 minutes	2	136
—Phone calls by locomotive engineer to RR to report a conviction or a completed State action to cancel, revoke, suspend, or deny motor vehicle driver's license.	80,000 candidates.	300 calls	10 minutes	50	2,763
240.113—Certification candidate request to former employing railroad of service record and railroad response concerning compliance or non-compliance with §§ 240.111/117/119 (Revised Requirement).	26,000 candidates.	520 requests + 520 resp.	15 min.; 30 min.	390	24,832
240.115—RR temporary recertification of locomotive engineer for 60 days after having requested the motor vehicle information specified in paragraph (h) of this section (New Requirements).	696 railroads	25 documents	5 minutes	2	136
—RR drug and alcohol counselor request of employee's record of prior counseling or treatment.	26,000 candidates.	200 requests + 200 records.	2 hours + 60 minutes.	600	40,728

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hours dollar cost equivalent
240.115 –Conditional certification based on recommendation by drug and alcohol counselor of employee aftercare and/or follow-up testing for alcohol or drugs.	26,000 candidates.	100 DAC testing directions.	60 minutes	100	6,788
—Employee is evaluated as having an active substance abuse disorder by RR drug and alcohol counselor (DAC).	26,000 candidates.	100 DAC evaluations.	60 minutes	100	6,788
240.117—RR adoption & compliance with a program that meets this section's requirement (Revised Requirement).	696 railroads	170 programs	60 minutes	170	11,540
—Designated supervisor of locomotive engineers (DSLE) evaluation that employee has received adequate remedial training to be eligible for grant of reinstatement of certificate after certification was denied or revoked.	80,000 locomotive engineers.	1,600 DSLE evaluations.	60 minutes	1,600	108,608
—Employee successful completion of mandatory remedial training or retraining.	80,000 locomotive engineers.	400 trained crew members.	8 hours	3,200	176,800
240.119—Certified engineers determined to have an active substance abuse disorder and thus is ineligible to hold certification.	80,000 locomotive engineers.	400 decisions	60 minutes	400	27,152
—Employee Self-Referral to EAP Counselor for Substance Abuse Disorder.	80,000 locomotive engineers.	50 self-referrals ..	5 minutes	4	221
—RR review of certification to determine whether a person may be or remain certified as a locomotive engineer in light of conduct relating to a violation of section 219.101 or 219.102 that occurred within 60 months prior to review.	696 railroads	400 reviews	30 minutes	200	13,576
—RR written determination that the most recent incident has occurred which begins period of ineligibility.	696 railroads	400 written determination.	30 minutes	200	13,576
—RR notification to person that certification has been denied or recertification revoked.	696 railroads	200 notices	45 minutes	150	10,182
—Waiver of investigation by locomotive engineer	80,000 locomotive engineers.	680 waivers	2 minutes	23	1,271
240.121—Criteria—hearing/vision acuity: Subsequent years—copies of Part 240 Appendix F to RR medical examiner.	20 new railroads.	20 copies	15 min.	5	339
—Medical examiner consultation with DSLE to issue conditional certification report.	696 railroads	20 reports	1 hour	20	1,358
—Notification—hearing/vision change by certified engineer to railroad.	696 railroads	10 notices	15 minutes	3	166
240.125—Criteria for knowledge testing: Consultation by employee being tested with a supervisory employee who possess territorial qualification for territory to explain question (New Requirement).	26,000 candidates.	8,000 worker consults.	5 minutes	667	36,852
240.127/129—Criteria for examining skill performance/operational perf.—Revision of RR certification program after engineer's failure/deficiencies in skills test and description of scoring system.	696 railroads	18 amended programs + 171 amended programs.	48 hours + 8 hours.	22,232	1,509,108
—Written records indicating dates that the engineer stopped performing/returned to certification service + compliance/observation tests (New Requirement).	696 railroads	1,000 records	5 minutes	83	5,634
240.201/221/223/301—List of DSLEs	696 railroads	696 updates	30 minutes	348	23,622
—List of designated qualified locomotive engineers (DQLEs).	696 railroads	696 updates/ records.	60 minutes	696	47,244
240.201/217/223/301—Locomotive Engineers Certificate.	80,000 candidates.	26,000 paper certificates.	5 minutes	2,167	147,096
240.205—Furnishing of prior counseling or treatment records to DAC by candidate.	696 railroads	185 records	5 minutes	15	829
240.207—Medical certificate on hearing/vision acuity—tests and certificate issuance.	80,000 candidates.	26,000 paper certificates.	70 minutes	30,333	2,059,004
—Written document to RR from medical examiner stating professional opinion that candidate does not meet one or both acuity standards but nevertheless be certified under certain conditions.	696 railroads	20 written documents.	15 minutes	5	339

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hours dollar cost equivalent
—Written document to RR from medical examiner stating person's acuity precludes operating a train even with conditions attached.	696 railroads	20 written documents.	15 minutes	5	339
—Written determination by medical examiner waiving necessity of wearing hearing/vision corrective device.	696 railroads	30 decisions	2 hours	60	4,073
240.219—Denial of certification—notification to employee of adverse information and employee response.	26,000 candidates.	45 letters + 45 responses.	1 hour	90	5,541
—RR provision of documents/records to candidate that support its pending denial decision (New Requirement).	696 railroads	45 documents	2 minutes	2	136
—Notification of adverse decision to person explaining RR basis for denial which addresses any explanation or rebuttal information provided by employee (Revised Requirement).	696 railroads	45 notices/explanations.	1 hour	45	3,055
240.221—Identification of qualified persons: RR provision of list/records of certified engineers to FRA upon request.	696 railroads	125 lists/record copies.	2 hours	250	16,970
240.223—RR written designation of person other than DSLE to sign locomotive engineers certificate.	696 railroads	100 written designations.	15 minutes	25	1,697
—RR inclusion of additional information on locomotive engineer's certificate or supplementing the certificate through other documents.	696 railroads	100 notations/documents.	15 minutes	25	1,697
240.229—Joint operations territory requirements: RR determinations made that locomotive engineers working in joint operations are qualified under subpart C of this part or are certified by another railroad.	321 railroads	10,000 RR determination.	10 minutes	1,667	113,156
—Notification by engineer of non-qualification to operate train on track segment.	321 railroads	260 calls	5 minutes	22	1,216
240.301—Replacement of lost, mutilated, or stolen certificates.	696 railroads	2,000 new certificates.	30 minutes	1,000	67,880
—Temporary replacement certificates valid for no more than 30 days (New Requirement).	696 railroads	2,000 temp. certificates.	30 minutes	1,000	67,880
240.305—Display of certificate upon request of authorized representatives of: FRA, State Part 212 inspectors, issuing railroad, or officer of another railroad during joint train operations (Revised Requirement).	696 railroads	2,500 request/displayed certificates.	5 minutes	208	11,492
240.309—Railroad oversight responsibilities—instances of identified poor safety conduct and remedial/other actions taken.	15 railroads	6 annotations	15 minutes	2	136
TESTING REQUIREMENTS:					
240.209/213—Written test—Prior to certification or recertification.	80,000 candidates.	26,000 tests	2 hours	52,000	2,873,000
—Test failures and retests of persons	80,000 candidates.	26 retests	2 hours	52	2,873
240.211/213—Performance Test—Prior to certification or recertification.	80,000 candidates.	26,000 tests	2 hours	52,000	2,873,000
—Test failures and retests of persons	80,000 candidates.	26 retests	2 hours	52	2,873
240.303—Annual operational monitoring observation test of locomotive engineers prior to certification or recertification.	80,000 candidates.	80,000 tests	2 hours	160,000	8,840,000
—Annual unannounced operating rules compliance test.	80,000 candidates.	80,000 tests	1 hour	80,000	4,420,000
RECORDKEEPING REQUIREMENTS:					
240.215—Recordkeeping—Certification of locomotive engineers.	696 railroads	26,000 cert. records.	30 minutes	13,000	882,440
240.305—Engineer notice to RR that he/she is not qualified to perform anticipated service.	80,000 candidates.	150 notices	5 minutes	13	718
—Notice to engineer holding two or more certificates that he/she has been denied certification by another RR or that he/she has had certification revoked.	1,060 candidates.	3 letters	30 minutes	2	111
240.307—Written notification to engineer by RR of reasons that it is suspending or revoking certification and mention of opportunity for hearing before impartial presiding officer.	696 railroads	1,358 written notices.	1 hour	1,358	92,181

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hours dollar cost equivalent
—Convening of hearing within deadline stipulated in (c)(1) of this section.	696 railroads	690 hearings/ records.	4 hours	2,760	187,349
—RR provision to employee of copy of written information and list of witnesses that it will present at hearing (New Requirement).	696 railroads	690 copies/lists ..	5 minutes	58	3,937
—RR determination on hearing record whether person no longer meets the certification requirements of this part stating explicitly reasons for the conclusion reached.	696 railroads	1,600 hearing determination.	1 hour	1,600	108,608
—RR written decision after close of hearing containing findings of fact and whether a revocable event occurred.	696 railroads	690 written decisions.	2 hours	1,380	93,675
—RR service of written decision on employee and employee's representative (Revised Requirement).	696 railroads	3,750 copies	30 minutes	1,875	127,275
—Person written waiver of right to hearing under this section.	26,000 candidates.	750 written waivers.	15 minutes	188	10,387
—RR revocation of certification after acquiring information that another RR has revoked person's certification.	696 railroads	50 revoked certifications.	2 hours	100	6,788
—RR updating of records to include relevant information meeting criteria of paragraph (i) of this section.	696 railroads	50 updated records.	15 minutes	8	543
—RR good faith determination after reasonable inquiry that the course of conduct provided for in paragraph (i) of this section is appropriate.	696 railroads	50 good faith determination.	60 minutes	50	3,394
240.308—Person must be certified as both conductor and locomotive engineer when operating locomotive without an assigned certified conductor (New Requirement).	26,000 candidates.	8,666 dual certifications.	5 minutes	722	49,009
—Communication to locomotive engineer on passenger railroad that certified conductor has been removed for a medical, police, or other such emergency after train departs from initial terminal (New Requirement).	51 railroads	200 messages	15 minutes	50	3,394
—Notification to RR by person holding more than one current conductor and/or locomotive certificate that another RR had denied recertification.	26,000 candidates.	100 notices	30 minutes	50	2,763
240.309—RR Oversight Responsibilities: Performance of Annual Reviews/Analysis.	51 railroads	51 reviews	40 hours	2,040	138,475
—RR Report of Findings	51 railroads	12 reports	1 hour	12	815
Appendix B—Railroad request to FRA for electronic submission of required materials.	696 railroads	170 requests	1 hour	170	11,540
Total	N/A	372,123	N/A	445,013	25,784,983

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), FRA solicits comments concerning: Whether these information collection requirements are necessary for the proper performance of the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized.

Organizations and individuals wishing to obtain a copy of the agency information collection request submitted to OMB or desiring to transmit comments on the collection of information requirements should direct them to Mr. Robert Brogan, Information Collection Clearance Officer, or Ms. Kimberly Toone, Records Management Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, 3rd Floor, Washington, DC 20590. Also, requests for a copy of the information collection request or comments on the information collection request requirements may be transmitted via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or to Ms. Toone at *Kim.Toone@dot.gov.* Additionally, Mr. Brogan and Ms. Toone may be contacted by phone at 202–493–6292, and 202–493–6139, respectively. (These numbers are not toll-free.)

OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

FRA is not authorized to impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information

collection requirements resulting from this rulemaking action prior to the effective date of the final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

D. Federalism Implications

Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations having ''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.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

FRA has analyzed this NPRM under the principles and criteria contained in Executive Order 13132. FRA has determined this proposed rule would not have a substantial direct effect on the States or their political subdivisions; on the relationship between the Federal government and the States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. In addition, FRA has determined this rule does not impose substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

This proposed rule could have preemptive effect by the operation of law under a provision of the former Federal Railroad Safety Act of 1970, repealed and recodified at 49 U.S.C. 20106 (Section 20106). Section 20106 provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the ''essentially local safety or security hazard'' exception to section 20106.

In sum, FRA has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132. As explained above, FRA has determined that this proposed rule has no federalism implications, other than the possible preemption of State laws under Federal railroad safety statutes, specifically 49 U.S.C. 20106. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this proposed rule is not required.

E. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This proposed rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

F. Environmental Impact

FRA has evaluated this rule under its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this proposed rule is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547 (May 26, 1999).

Consistent with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this proposed rule is not a major Federal action significantly affecting the quality of the human environment.

G. Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. For the year 2016, this monetary amount has been adjusted to $156,000,000 to account for inflation.[16] This proposed rule will not result in the expenditure of more than $156,000,000 by the public sector in in any one year, and thus preparation of such a statement is not required.

H. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). FRA has evaluated this NPRM under Executive Order 13211 and determined that this NPRM is not a ''significant energy action'' within the meaning of Executive Order 13211.

Executive Order 13783 requires Federal agencies to review regulations to determine whether they potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. 82 FR 16093 (Mar. 31, 2017). FRA has evaluated this NPRM under Executive Order 13783 and determined

[16] Monetary value based on most recent DOT guidance. U.S. Department of Transportation, Office of Secretary of Transportation, Monje, Carlos and Thomson, Kathryn, ''Department Guidance: Threshold of Significant Regulatory Action Under the Unfunded Mandate Reform Act of 1995. April 4, 2016. *https://www.transportation.gov/office-policy/transportation-policy/threshold-significant-regulatory-actions-under-unfunded-mandat-0.*

that this proposed rule would not burden the development or use of domestically produced energy resources.

I. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/*privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

List of Subjects in 49 CFR Part 240

Administrative practice and procedure, Locomotive engineer, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 240 of chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 240—[AMENDED]

■ 1. The authority citation for part 240 is revised to read as follows:

Authority: 44 U.S.C. 3501 *et seq.;* 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. Section 240.1 is amended by revising paragraph (c) to read as follows:

§ 240.1 Purpose and scope.

* * * * *

(c) The locomotive engineer certification requirements prescribed in this part apply to any person who meets the definition of locomotive engineer contained in § 240.7, regardless of the fact that the person may have a job classification title other than that of locomotive engineer.

■ 3. Section 240.3 is revised to read as follows:

§ 240.3 Application and responsibility for compliance.

(a) This part applies to all railroads, except:

(1) Railroads that operate only on track inside an installation that is not part of the general railroad system of transportation (*i.e.,* plant railroads, as defined in § 240.7);

(2) Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation as defined in § 240.7; or

(3) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(b) Although the duties imposed by this part are generally stated in terms of the duty of a railroad, each person, including a contractor for a railroad, who performs any function covered by this part must perform that function in accordance with this part.

■ 4. Section 240.5 is revised to read as follows:

§ 240.5 Effect and construction.

(a) FRA does not intend, by use of the term locomotive engineer in this part, to alter the terms, conditions, or interpretation of existing collective bargaining agreements that employ other job classification titles when identifying a person authorized by a railroad to operate a locomotive.

(b) FRA does not intend by issuance of these regulations to alter the authority of a railroad to initiate disciplinary sanctions against its employees, including managers and supervisors, in the normal and customary manner, including those contained in its collective bargaining agreements.

(c) Except as provided in § 240.308, nothing in this part shall be construed to create or prohibit an eligibility or entitlement to employment in other service for the railroad as a result of denial, suspension, or revocation of certification under this part.

(d) Nothing in this part shall be deemed to abridge any additional procedural rights or remedies not inconsistent with this part that are available to the employee under a collective bargaining agreement, the Railway Labor Act, or (with respect to employment at will) at common law with respect to removal from service or other adverse action taken as a consequence of this part.

■ 5. Section 240.7 is amended by:

■ a. Adding in alphabetical order definitions for ''conductor'' and ''drug and alcohol counselor'';

■ b. Removing the definition of ''EAP counselor'';

■ c. Revising the definitions of ''file, filed and filing'' and ''FRA Representative'';

■ d. Adding in alphabetical order a definition for ''ineligible or ineligibility'';

■ e. Revising the definitions of ''instructor engineer'', ''main track'', and ''medical examiner'';

■ f. Removing the definition of ''newly hired employee'';

■ g. Adding in alphabetical order definitions for ''on-the-job training (OJT)'', ''physical characteristics'', and ''plant railroad'';

■ h. Revising the definitions of ''qualified'' and ''railroad rolling stock'';

■ i. Adding in alphabetical order definitions for ''remote control operator'' and ''serve or service'';

■ j Removing the definition of ''service'';

■ k. Revising the definition of ''substance abuse disorder''; and

■ l. Adding in alphabetical order definitions for ''substance abuse professional'', ''territorial qualifications'', and ''tourist, scenic, historic, or excursion operations that are not part of the general system of transportation''.

The additions and revisions read as follows:

§ 240.7 Definitions.

* * * * *

Conductor means the crewmember in charge of a ''train or yard crew'' as defined in part 218 of this chapter.

* * * * *

Drug and alcohol counselor (DAC) means a person who meets the credentialing and qualification requirements of a ''Substance Abuse Professional'' (SAP), as provided in 49 CFR part 40.

* * * * *

File, filed and filing mean submission of a document under this part on the date when the DOT Docket Clerk or FRA receives it, or if sent by mail, the date mailing was completed.

* * * * *

FRA Representative means the FRA Associate Administrator for Railroad Safety/Chief Safety Officer and the Associate Administrator's delegate, including any safety inspector employed by the Federal Railroad Administration and any qualified state railroad safety inspector acting under part 212 of this chapter.

Ineligible or ineligibility means that a person is legally disqualified from serving as a certified locomotive engineer. The term covers a number of circumstances in which a person may not serve as a certified locomotive

engineer. Revocation of certification pursuant to § 240.307 and denial of certification pursuant to § 240.219 are two examples in which a person would be ineligible to serve as a certified locomotive engineer. A period of ineligibility may end when a condition or conditions are met. For example, a period of ineligibility may end when a person meets the conditions to serve as a certified locomotive engineer following an alcohol or drug violation pursuant to § 240.119.

Instructor engineer means

(1) A person who has demonstrated, pursuant to the railroad's written program, an adequate knowledge of the subjects under instruction and, where applicable, has the necessary operating experience to effectively instruct in the field, and has the following qualifications:

(i) Is a certified locomotive engineer under this part; and

(ii) Has been selected as such by a designated railroad officer, in concurrence with the designated employee representative, where present, to teach others proper train handling procedures, or

(iii) In absence of concurrence provided in paragraph (1)(ii) of this definition, has a minimum of 12 months service working in the class of service for which the person is designated to instruct.

(2) If a railroad does not have designated employee representation, then a person employed by the railroad need not comply with paragraph (1)(ii) or (iii) of this definition to be an instructor engineer.

* * * * *

Main track means a track upon which the operation of trains is governed by one or more of the following methods of operation: Timetable; mandatory directive; signal indication; positive train control as defined in part 236 of this chapter; or any form of absolute or manual block system.

Medical examiner means a person licensed as a doctor of medicine or doctor of osteopathy. A medical examiner can be a qualified full-time salaried employee of a railroad, a qualified practitioner who contracts with the railroad on a fee-for-service or other basis, or a qualified practitioner designated by the railroad to perform functions in connection with medical evaluations of employees. As used in this rule, the medical examiner owes a duty to make an honest and fully informed evaluation of the condition of an employee.

On-the-job training (OJT) means job training that occurs in the workplace, *i.e.,* the employee learns the job while doing the job.

Operator control unit (OCU) means a mobile unit that communicates via a radio link the commands for a movement (direction, speed, braking) or for operations (bell, horn, sand) to an RCL.

* * * * *

Physical characteristics means the actual track profile of and physical location for points within a specific yard or route that affect the movement of a locomotive or train. Physical characteristics includes both main track physical characteristics (*see* definition of ''main track'' in this section) and other than main track physical characteristics.

Plant railroad means a plant or installation that owns or leases a locomotive, uses that locomotive to switch cars throughout the plant or installation, and is moving goods solely for use in the facility's own industrial processes. The plant or installation could include track immediately adjacent to the plant or installation if the plant railroad leases the track from the general system railroad and the lease provides for (and actual practice entails) the exclusive use of that trackage by the plant railroad and the general system railroad for purposes of moving only cars shipped to or from the plant. A plant or installation that operates a locomotive to switch or move cars for other entities, even if solely within the confines of the plant or installation, rather than for its own purposes or industrial processes, will not be considered a plant railroad because the performance of such activity makes the operation part of the general railroad system of transportation.

Qualified means a person who has successfully completed all instruction, training and examination programs required by the employer and the applicable parts of this chapter, and that the person therefore may reasonably be expected to be proficient on all safety-related tasks the person is assigned to perform.

* * * * *

Railroad rolling stock is on-track equipment that is either a ''railroad freight car'' (as defined in § 215.5 of this chapter) or a ''passenger car'' (as defined in § 238.5 of this chapter).

Remote control locomotive (RCL) means a remote control locomotive that, through use of a radio link can be operated by a person not physically within the confines of the locomotive cab. For purposes of this part, the term RCL does not refer to a locomotive or group of locomotives remotely controlled from the lead locomotive of a train, as in a distributed power arrangement.

* * * * *

Serve or service, in the context of serving documents, has the meaning given in Rule 5 of the Federal Rules of Civil Procedure as amended. Similarly, the computation of time provisions in Rule 6 of the Federal Rules of Civil Procedure as amended are also applicable in this part. *See also* the definition of ''filing'' in this section.

* * * * *

Substance abuse disorder refers to a psychological or physical dependence on alcohol or a drug, or another identifiable and treatable mental or physical disorder involving the abuse of alcohol or drugs as a primary manifestation. A substance abuse disorder is ''active'' within the meaning of this part if the person is currently using alcohol or other drugs, except under medical supervision consistent with the restrictions described in § 219.103 of this chapter or has failed to successfully complete primary treatment or successfully participate in aftercare as directed by a DAC or SAP.

Substance abuse professional (SAP) means a person who meets the qualifications of a substance abuse professional, as provided in part 40 of this title.

Territorial qualifications means possessing the necessary knowledge concerning a railroad's operating rules and timetable special instructions, including familiarity with applicable main track and other than main track physical characteristics of the territory over which the locomotive or train movement will occur.

Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.,* there is no freight, intercity passenger, or commuter passenger railroad operation on the track).

* * * * *

■ 6. Section 240.11 is amended by revising paragraph (d) to read as follows:

§ 240.11 Penalties and consequences for noncompliance.

* * * * *

(d) In addition to the enforcement methods referred to in paragraphs (a), (b), and (c) of this section, FRA may also address violations of this part by use of the emergency order, compliance order, and/or injunctive provisions of the Federal rail safety laws.

■ 7. Section 240.103 is amended by revising paragraphs (b) through (e) and adding paragraphs (f), (g), and (h) to read as follows:

§ 240.103 Approval of design of individual railroad programs by FRA.

* * * * *

(b) Each railroad shall:

(1) Simultaneous with its filing with the FRA, serve a copy of the submission filed pursuant to paragraph (a) of this section, a resubmission filed pursuant to paragraph (f) of this section, or a material modification filed pursuant to paragraph (g) of this section on the president of each labor organization that represents the railroad's employees subject to this part; and

(2) Include in its submission filed pursuant to paragraph (a) of this section, a resubmission filed pursuant to paragraph (f) of this section, or a material modification filed pursuant to paragraph (g) of this section a statement affirming that the railroad has served a copy on the president of each labor organization that represents the railroad's employees subject to this part, together with a list of the names and addresses of persons served.

(c) Not later than 45 days from the date of filing a submission pursuant to paragraph (a) of this section, a resubmission pursuant to paragraph (f) of this section, or a material modification pursuant to paragraph (g) of this section, any designated representative of railroad employees subject to this part may comment on the submission, resubmission, or material modification:

(1) Each comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding;

(2) Each comment shall be submitted to the Associate Administrator for Railroad Safety/Chief Safety Officer, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590; and

(3) The commenter shall certify that a copy of the comment was served on the railroad.

(d) The submission required by paragraph (a) of this section shall state the railroad's election either:

(1) To accept responsibility for the training of student engineers and thereby obtain authority for that railroad to initially certify a person as an engineer in an appropriate class of service, or

(2) To recertify only engineers previously certified by other railroads.

(e) A railroad that elects to accept responsibility for the training of student engineers shall state in its submission whether it will conduct the training program or employ a training program conducted by some other entity on its behalf but adopted and ratified by that railroad.

(f) A railroad's program is considered approved and may be implemented 30 days after the required filing date (or the actual filing date) unless the Administrator notifies the railroad in writing that the program does not conform to the criteria set forth in this part.

(1) If the Administrator determines that the program does not conform, the Administrator will inform the railroad of the specific deficiencies.

(2) If the Administrator informs the railroad of deficiencies more than 30 days after the initial filing date, the original program may remain in effect until 30 days after approval of the revised program is received so long as the railroad has complied with the requirements of paragraph (g) of this section.

(g) A railroad shall resubmit its program within 30 days after the date of such notice of deficiencies. A failure to resubmit the program with the necessary revisions will be considered a failure to implement a program under this part.

(1) The Administrator will inform the railroad in writing whether its revised program conforms to this part.

(2) If the program does not conform, the railroad shall resubmit its program.

(h) A railroad that intends to materially modify its program after receiving initial FRA approval shall submit a description of how it intends to modify the program in conformity with the specific requirements of this part at least 60 days prior to implementing such a change.

(1) A modification is material if it would affect the program's conformance with this part.

(2) The modification submission shall contain a description that conforms to the pertinent portion of the procedures contained in appendix B.

(3) The modification submission will be handled in accordance with the procedures of paragraphs (b) and (c) of this section as though it were a new program.

■ 8. Section 240.105 is amended by adding paragraph (d) to read as follows:

§ 240.105 Criteria for selection of designated supervisors of locomotive engineers.

* * * * *

(d) Each railroad is authorized to designate a person as a designated supervisor of locomotive engineers with additional conditions or operational restrictions on the service the person may perform.

■ 9. Section 240.107 is amended by:

■ a. Revising the section heading and paragraphs (a), (b)(2) and (3);

■ b. Adding paragraphs (b)(4) and (5);

■ c. Revising paragraphs (c)(2) and (3); and

■ d. Adding paragraph (c)(4).

The revisions and additions read as follows:

§ 240.107 Types of service.

(a) Each railroad's program shall state which of the classes of service, provided for in paragraph (b) of this section, that it will cover.

(b) * * *

(2) Locomotive servicing engineers,

(3) Remote control operators,

(4) Student engineers, and

(5) Student remote control operators.

(c) * * *

(2) Locomotive servicing engineers may operate locomotives singly or in multiples but may not move them with cars coupled to them;

(3) Remote control operators may operate an RCL singly or attached to multiple locomotives, and may move an RCL with or without cars coupled to the RCL or locomotives, but in all instances the movement must be controlled using an OCU; and

(4) Student engineers and student remote control operators may operate only under direct and immediate supervision of an instructor engineer.

* * * * *

■ 10. Section 240.111 is amended by revising paragraph (a)(2), republishing paragraph (c) introductory text, and revising paragraphs (c)(1) and (2), (d), (e), (f), and (h) to read as follows:

§ 240.111 Individual's duty to furnish data on prior safety conduct as motor vehicle operator.

(a) * * *

(2) Take any additional actions, including providing any necessary consent required by State, Federal, or foreign law to make information concerning his or her driving record available to that railroad.

* * * * *

(c) Each person shall request the information required under paragraph (b)(1) of this section from:

(1) The chief of the driver licensing agency of any jurisdiction, including a state or foreign country, which last issued that person a driver's license; and

(2) The chief of the driver licensing agency of any other jurisdiction, including states or foreign countries, that issued or reissued him or her a driver's license within the preceding five years.

(d) Each person shall request the information required under paragraph (b)(2) of this section from the Chief, National Driver Register, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 in accordance with the procedures contained in appendix C unless the person's motor vehicle driving license was issued by a state or the District of Columbia.

(e) If the person's motor vehicle driving license was issued by one of the driver licensing agencies of a state or the District of Columbia, the person shall request the chief of that driver licensing agency to perform a check of the National Driver Register for the possible existence of additional information concerning his or her driving record and to provide the resulting information to the railroad.

(f) If advised by the railroad that a driver licensing agency or the National Highway Traffic Safety Administration has informed the railroad that additional information concerning that person's driving history may exist in the files of a state agency or foreign country not previously contacted in accordance with this section, such person shall:

(1) Request in writing that the chief of the driver licensing agency which compiled the information provide a copy of the available information to the prospective certifying railroad; and

(2) Take any additional action required by State, Federal, or foreign law to obtain that additional information.

* * * * *

(h) Each certified locomotive engineer or person seeking initial certification shall report motor vehicle incidents described in § 240.115(b)(1) and (2) to the employing railroad within 48 hours of being convicted for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle driver's license for, such violations. For purposes of this paragraph and § 240.115(h), ''state action'' means action of the jurisdiction that has issued the motor vehicle driver's license, including a foreign country. For the purposes of engineer certification, no railroad shall require reporting earlier than 48 hours after the conviction, or completed state action to cancel, revoke, or deny a motor vehicle driver's license.

■ 11. Section 240.113 is amended by revising paragraphs (a) introductory text and (a)(1) and removing and reserving paragraph (b).

The revisions read as follows:

§ 240.113 Individual's duty to furnish data on prior safety conduct as an employee of a different railroad.

(a) Except for persons covered by § 240.109(h), each person seeking certification or recertification under this part shall, within 366 days preceding the date of the railroad's decision on certification or recertification:

(1) Request, in writing, that the chief operating officer or other appropriate person of the former employing railroad provide a copy of that railroad's available information concerning his or her service record pertaining to compliance or non-compliance with §§ 240.111, 240.117, and 240.119 to the railroad that is considering such certification or recertification; and

* * * * *

■ 12. Section 240.115 is revised to read as follows:

§ 240.115 Criteria for consideration of prior safety conduct as a motor vehicle operator.

(a) Each railroad shall adopt and comply with a program meeting the requirements of this section. When any person (including, but not limited to, each railroad, railroad officer, supervisor, and employee) violates any requirement of a program that complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

(b) Except as provided in paragraphs (c) through (f) of this section, each railroad, prior to initially certifying or recertifying any person as a locomotive engineer for any type of service, shall determine that the person meets the eligibility requirements of this section involving prior conduct as a motor vehicle operator.

(c) A railroad shall initially certify a person as a locomotive engineer for 60 days if the person:

(1) Requested the information required by paragraph (h) of this section at least 60 days prior to the date of the decision to certify that person; and

(2) Otherwise meets the eligibility requirements provided in § 240.109.

(d) A railroad shall recertify a person as a locomotive engineer for 60 days from the expiration date of that person's certification if the person:

(1) Requested the information required by paragraph (h) of this section at least 60 days prior to the date of the decision to recertify that person; and

(2) Otherwise meets the eligibility requirements provided in § 240.109.

(e) Except as provided in paragraph (f) of this section, if a railroad who certified or recertified a person pursuant to paragraph (c) or (d) of this section does not obtain and evaluate the information required pursuant to paragraph (h) of this section within 60 days of the pertinent dates identified in paragraph (c) or (d) of this section, that person will be ineligible to perform as a locomotive engineer until the information can be evaluated.

(f) If a person requests the information required pursuant to paragraph (h) of this section but is unable to obtain it, that person or the railroad certifying or recertifying that person may petition for a waiver of the requirements of paragraph (b) of this section in accordance with the provisions of part 211 of this chapter. A railroad shall certify or recertify a person during the pendency of the waiver request if the person otherwise meets the eligibility requirements provided in § 240.109.

(g) When evaluating a person's motor vehicle driving record, a railroad shall not consider information concerning motor vehicle driving incidents that occurred more than 36 months before the month in which the railroad is making its certification decision or at a time other than that specifically provided for in § 240.111, § 240.117, § 240.119, or § 240.205.

(h) A railroad shall only consider information concerning the following types of motor vehicle incidents:

(1) A conviction for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle driver's license for, operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance; or

(2) A conviction for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle driver's license for, refusal to undergo such testing as is required by State or foreign law when a law enforcement official seeks to determine whether a person is operating a vehicle while under the influence of alcohol or a controlled substance.

(i) If such an incident is identified,

(1) The railroad shall provide the data to the railroad's DAC, together with any information concerning the person's railroad service record, and shall refer the person for evaluation to determine if the person has an active substance abuse disorder;

(2) The person shall cooperate in the evaluation and shall provide any requested records of prior counseling or treatment for review exclusively by the DAC in the context of such evaluation; and

(3) If the person is evaluated as not currently affected by an active substance abuse disorder, the subject data shall not be considered further with respect to certification. However, the railroad shall, on recommendation of the DAC,

condition certification upon participation in any needed aftercare and/or follow-up testing for alcohol or drugs deemed necessary by the DAC consistent with the technical standards specified in § 240.119(d)(3) of this part.

(4) If the person is evaluated as currently affected by an active substance abuse disorder, the provisions of § 240.119(b) will apply.

(5) If the person fails to comply with the requirements of paragraph (i)(2) of this section, the person shall be ineligible to perform as a locomotive engineer until such time as the person complies with the requirements.

■ 13. Section 240.117 is amended by:

■ a. Revising paragraphs (a), (c)(1) and (3), and (e)(5) and (6);

■ b. Adding paragraph (f)(4);

■ c. Revising paragraphs (g)(3)(i) and (ii);

■ d. Redesignating paragraph (h) as paragraph (i); and

■ e. Adding new paragraph (h).

The revisions and additions read as follows:

§ 240.117 Criteria for consideration of operating rules compliance data.

(a) Each railroad shall adopt and comply with a program which meets the requirements of this section. When any person including, but not limited to, each railroad, railroad officer, supervisor, and employee violates any requirement of a program that complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

* * * * *

(c)(1) A certified locomotive engineer who has demonstrated a failure to comply with railroad rules and practices described in paragraph (e) of this section shall have his or her certification revoked.

* * * * *

(3) A certified locomotive engineer who is called by a railroad to perform the duty of a train crew member other than that of locomotive engineer or conductor shall not have his or her certification revoked based on actions taken or not taken while performing that duty.

* * * * *

(e) * * *

(5) Failure to comply with prohibitions against tampering with locomotive mounted safety devices, or knowingly operating or permitting to be operated a train with an unauthorized disabled safety device in the controlling locomotive. (*See* 49 CFR part 218, subpart D and appendix C to part 218); or

(6) Incidents of noncompliance with § 219.101 of this chapter; however such incidents shall be considered as a violation only for the purposes of paragraphs (g)(2) and (3) of this section.

(f) * * *

(4) A railroad shall not be permitted to deny or revoke an employee's certification based upon additional conditions or operational restrictions imposed pursuant to § 240.107(d).

(g) * * *

(3) * * *

(i) In the case of a single incident involving violation of one or more of the operating rules or practices described in paragraphs (e)(1) through (e)(5) of this section, the person shall have his or her certificate revoked for a period of 30 calendar days.

(ii) In the case of two separate incidents involving a violation of one or more of the operating rules or practices described in paragraphs (e)(1) through (e)(5) of this section, that occurred within 24 months of each other, the person shall have his or her certificate revoked for a period of 180 calendar days.

* * * * *

(h) Any or all periods of revocation provided in this section may consist of training.

* * * * *

■ 14. Section 240.119 is revised to read as follows:

§ 240.119 Criteria for consideration of data on substance abuse disorders and alcohol/drug rules compliance.

(a) *Program requirement.* Each railroad shall adopt and comply with a program which complies with the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

(b) *Determination requirement.* Each railroad, prior to initially certifying or recertifying any person as a locomotive engineer for any type of service, shall determine that the person meets the eligibility requirements of this section.

(c) *Recordkeeping requirement.* In order to make the determination required under paragraph (d) of this section, a railroad shall have on file documents pertinent to that determination, including a written document from its DAC which states his or her professional opinion that the person has been evaluated as not currently affected by a substance abuse disorder or that the person has been evaluated as affected by an active substance abuse disorder.

(d) *Fitness requirement.* (1) A person who has an active substance abuse disorder shall be denied certification or recertification as a locomotive engineer.

(2) Except as provided in paragraph (g) of this section, a certified locomotive engineer who is determined to have an active substance abuse disorder shall be ineligible to hold certification. Consistent with other provisions of this part, certification may be reinstated as provided in paragraph (f) of this section.

(3) In the case of a current employee of the railroad evaluated as having an active substance abuse disorder (including a person identified under the procedures of § 240.115), the employee may, if otherwise eligible, voluntarily self-refer for substance abuse counseling or treatment under the policy required by § 219.1001(b)(1) of this chapter; and the railroad shall then treat the substance abuse evaluation as confidential except with respect to ineligibility for certification.

(e) *Prior alcohol/drug conduct; Federal rule compliance.* (1) In determining whether a person may be or remain certified as a locomotive engineer, a railroad shall consider conduct described in paragraph (e)(2) of this section that occurred within a period of 60 consecutive months prior to the review. A review of certification shall be initiated promptly upon the occurrence and documentation of any incident of conduct described in this paragraph.

(2) A railroad shall consider any violation of § 219.101 or § 219.102 of this chapter and any refusal to provide a breath or body fluid sample for testing under the requirements of part 219 of this chapter when instructed to do so by a railroad representative.

(3) A period of ineligibility described in this paragraph shall begin:

(i) For a person not currently certified, on the date of the railroad's written determination that the most recent incident has occurred; or

(ii) For a person currently certified, on the date of the railroad's notification to the person that recertification has been denied or certification has been revoked; and

(4) The period of ineligibility described in this section shall be determined in accordance with the following standards:

(i) In the case of a single violation of § 219.102 of this chapter, the person shall be ineligible to hold a certificate during evaluation and any required primary treatment as described in paragraph (f) of this section. In the case of two violations of § 219.102 of this

chapter, the person shall be ineligible to hold a certificate for a period of two years. In the case of more than two such violations, the person shall be ineligible to hold a certificate for a period of five years.

(ii) In the case of one violation of § 219.102 of this chapter and one violation of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of three years.

(iii) In the case of one violation of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of 9 months (unless identification of the violation was through a qualifying referral program described in § 219.1001 of this chapter and the locomotive engineer waives investigation, in which case the certificate shall be deemed suspended during evaluation and any required primary treatment as described in paragraph (f) of this section). In the case of two or more violations of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of five years.

(iv) A refusal to provide a breath or body fluid sample for testing under the requirements of part 219 of this chapter when instructed to do so by a railroad representative shall be treated, for purposes of ineligibility under this paragraph, in the same manner as a violation of:

(A) Section 219.102 of this chapter, in the case of a refusal to provide a urine specimen for testing; or

(B) Section 219.101 of this chapter, in the case of a refusal to provide a breath sample for alcohol testing or a blood specimen for mandatory post-accident toxicological testing.

(f) *Future eligibility to hold certificate following alcohol/drug violation.* The following requirements apply to a person who has been denied certification or who has had certification suspended or revoked as a result of conduct described in paragraph (e) of this section:

(1) The person shall not be eligible for grant or reinstatement of the certificate unless and until the person has:

(i) Been evaluated by a SAP to determine if the person currently has an active substance abuse disorder;

(ii) Successfully completed any program of counseling or treatment determined to be necessary by the SAP prior to return to service; and

(iii) In accordance with the testing procedures of subpart H of part 219 of this chapter, has had an alcohol test with an alcohol concentration of less than .02 and presented a urine sample that tested negative for controlled substances assayed.

(2) A locomotive engineer placed in service or returned to service under the above-stated conditions shall continue in any program of counseling or treatment deemed necessary by the SAP and shall be subject to a reasonable program of follow-up alcohol and drug testing without prior notice for a period of not more than 60 months following return to service. Follow-up tests shall include not fewer than 6 alcohol tests and 6 drug tests during the first 12 months following return to service.

(3) Return-to-service and follow-up alcohol and drug tests shall be performed consistent with the requirements of subpart H of part 219 of this chapter.

(4) This paragraph does not create an entitlement to utilize the services of a railroad SAP, to be afforded leave from employment for counseling or treatment, or to employment as a locomotive engineer. Nor does it restrict any discretion available to the railroad to take disciplinary action based on conduct described herein.

(g) *Confidentiality protected.* Nothing in this part shall affect the responsibility of the railroad under § 219.1003(f) of this chapter to treat qualified referrals for substance abuse counseling and treatment as confidential; and the certification status of a locomotive engineer who is successfully assisted under the procedures of that section shall not be adversely affected. However, the railroad shall include in its referral policy, as required pursuant to § 219.1003(j) of this chapter, a provision that, at least with respect to a certified locomotive engineer or a candidate for certification, the policy of confidentiality is waived (to the extent that the railroad shall receive from the SAP or DAC official notice of the substance abuse disorder and shall suspend or revoke the certification, as appropriate) if the person at any time refuses to cooperate in a recommended course of counseling or treatment.

■ 15. Section 240.121 is amended by revising paragraphs (a) and (d) to read as follows:

§ 240.121 Criteria for vision and hearing acuity data.

(a) Each railroad shall adopt and comply with a program which complies with the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program that complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

* * * * *

(d) Except as provided in paragraph (e) of this section, each person shall have a hearing test or audiogram that shows the person's hearing acuity meets or exceeds the following thresholds: The person does not have an average hearing loss in the better ear greater than 40 decibels with or without use of a hearing aid, at 500 Hz, 1,000 Hz, and 2,000 Hz. The hearing test or audiogram shall meet the requirements of one of the following:

(1) As required in 29 CFR 1910.95(h) (OSHA);

(2) As required in § 227.111 of this chapter; or

(3) Conducted using an audiometer that meets the specifications of and are maintained and used in accordance with ANSI S3.6–2004 ''Specifications for Audiometers.''

* * * * *

■ 16. Section 240.123 is amended by revising paragraphs (a), (c) introductory text, (c)(4)(ii) and (vi), and (c)(5) introductory text, and adding paragraphs (e) and (f) to read as follows:

§ 240.123 Training.

(a) Each railroad shall adopt and comply with a program that meets the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program that complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

* * * * *

(c) A railroad that elects to train a previously untrained person to be a locomotive engineer shall provide initial training that, at a minimum, complies with the program requirements of § 243.101 of this chapter and:

* * * * *

(4) * * *

(ii) Railroad operating rules and procedures,

* * * * *

(vi) Compliance with Federal railroad safety laws, regulations, and orders;

(5) Is conducted so that the performance skill component shall meet the following conditions:

* * * * *

(e) A railroad shall designate in its program required by this section the time period in which a locomotive engineer must be absent from a territory or yard, before requalification on physical characteristics is required.

(f) A railroad's program shall include the procedures used to qualify or

requalify a person on the physical characteristics.

■ 17. Section 240.125 is amended by revising the section heading and paragraphs (a) and (c)(4)(v) and adding paragraphs (e), (f), and (g) to read as follows:

§ 240.125 Knowledge testing.

(a) Each railroad shall adopt and comply with a program that meets the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program that complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

* * * * *

(c) * * *

(4) * * *

(v) Compliance with Federal railroad safety laws, regulations, and orders;

* * * * *

(e) For purposes of paragraph (c) of this section, the railroad must provide the person(s) being tested with an opportunity to consult with a supervisory employee, who possesses territorial qualifications for the territory, to explain a question.

(f) The documentation shall indicate whether the person passed or failed the test.

(g) If a person fails to pass the test, no railroad shall permit or require that person to function as a locomotive engineer prior to that person's achieving a passing score during a reexamination of the person's knowledge.

■ 18. Section 240.127 is amended by revising paragraph (a) to read as follows:

§ 240.127 Criteria for examining skill performance.

(a) Each railroad shall adopt and comply with a program which complies with the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program that complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

* * * * *

■ 19. Section 240.129 is amended by revising paragraphs (a), (b), (c) introductory text, (c)(2), (d) introductory text, (e) introductory text, and (e)(1) and adding paragraph (h) to read as follows:

§ 240.129 Criteria for monitoring operational performance of certified engineers.

(a) Each railroad shall adopt and comply with a program which complies with the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

(b) Each railroad shall have a program to monitor the operational performance of those it has determined as qualified as a locomotive engineer in any class of service. The program shall include procedures to address the testing of certified engineers who are not given both an operational monitoring observation and an unannounced compliance test in a calendar year pursuant to paragraph (h) of this section. At a minimum, such procedures shall include the following:

(1) A requirement that an operational monitoring observation and an unannounced compliance test must be conducted within 30 days of a return to service as a locomotive engineer; and

(2) The railroad must retain a written record indicating the date that the engineer stopped performing service that requires certification pursuant to this part, the date that the engineer returned to performing service that requires certification pursuant to this part, and the dates that the operational monitoring observation and the unannounced compliance test were performed.

(c) The procedures for the operational monitoring observation shall:

* * * * *

(2) Be designed so that each engineer shall be monitored each calendar year by a Designated Supervisor of Locomotive Engineers, who does not need to be qualified on the physical characteristics of the territory over which the operational monitoring observation will be conducted;

* * * * *

(d) The operational monitoring observation procedures may be designed so that the locomotive engineer being monitored either:

* * * * *

(e) The unannounced compliance test program shall:

(1) Be designed so that, except for as provided in paragraph (h) of this section, each locomotive engineer shall be given at least one unannounced compliance test each calendar year;

* * * * *

(h) A certified engineer who is not performing a service that requires certification pursuant to this part need not be given an unannounced compliance test or operational monitoring observation. However, when the certified engineer returns to a service that requires certification pursuant to this part, that certified engineer must be tested pursuant to this section and § 240.303 within 30 days of his or her return.

■ 20. Section 240.205 is revised to read as follows:

§ 240.205 Procedures for determining eligibility based on prior safety conduct.

(a) Each railroad, prior to initially certifying or recertifying any person as an engineer for any class of service other than student, shall determine that the person meets the eligibility requirements of § 240.115 involving prior conduct as a motor vehicle operator, § 240.117 involving prior conduct as a railroad worker, and § 240.119 involving substance abuse disorders and alcohol/drug rules compliance.

(b) In order to make the determination required under paragraph (a) of this section, a railroad shall have on file documents pertinent to the determinations referred to in paragraph (a) of this section, including a written document from its DAC either reflecting his or her professional opinion that the person has been evaluated as not currently affected by a substance abuse disorder or that the person has been evaluated as affected by an active substance abuse disorder and is ineligible for certification.

■ 21. Section 240.207 is amended by revising paragraphs (b)(2) introductory text and (b)(2)(i) to read as follows:

§ 240.207 Procedures for making the determination on vision and hearing acuity.

* * * * *

(b) * * *

(2) A written document from its medical examiner documenting his or her professional opinion that the person does not meet one or both acuity standards and stating the basis for his or her determination that:

(i) The person can nevertheless be certified under certain conditions; or

* * * * *

■ 22. Section 240.209 is amended by revising paragraphs (b) and (c) to read as follows:

§ 240.209 Procedures for making the determination on knowledge.

* * * * *

(b) In order to make the determination required by paragraph (a) of this section, a railroad shall have written documentation showing that the person either:

(1) Exhibited his or her knowledge by achieving a passing grade in testing that complies with this part; or

(2) Did not achieve a passing grade in such testing.

(c) If a person fails to achieve a passing score under the testing procedures required by this part, no railroad shall permit or require that person to operate a locomotive as a locomotive or train service engineer prior to that person's achieving a passing score during a reexamination of his or her knowledge.

■ 23. Section 240.211 is amended by revising paragraph (b) to read as follows:

§ 240.211 Procedures for making the determination on performance skills.

* * * * *

(b) In order to make this determination, a railroad shall have written documentation showing the person either:

(1) Exhibited his or her knowledge by achieving a passing grade in testing that complies with this part; or

(2) Did not achieve a passing grade in such testing.

* * * * *

■ 24. Section 240.215 is amended by revising paragraph (e)(2), republishing paragraph (j) introductory text, revising paragraphs (j)(1) through (3), and adding paragraphs (j)(4) through (6) to read as follows:

§ 240.215 Retaining information supporting determinations.

* * * * *

(e) * * *

(2) If a railroad relies on the use of a locomotive operations simulator to conduct the performance skills testing required under this part, the relevant data from the railroad's records concerning the person's success or failure on the performance skills test(s) that documents the relevant operating facts on which the determination was based including the observations and evaluation of the designated supervisor of locomotive engineers; and

* * * * *

(j) Nothing in this section precludes a railroad from maintaining the information required to be retained under this section in an electronic format provided that:

(1) The railroad maintains an information technology security program adequate to ensure the integrity of the electronic data storage system, including the prevention of unauthorized access to the program logic or individual records;

(2) The program and data storage system must be protected by a security system that utilizes an employee identification number and password, or a comparable method, to establish appropriate levels of program access meeting all of the following standards:

(i) No two individuals have the same electronic identity; and

(ii) A record cannot be deleted or altered by any individual after the record is certified by the employee who created the record;

(3) Any amendment to a record is either:

(i) Electronically stored apart from the record that it amends; or

(ii) Electronically attached to the record as information without changing the original record;

(4) Each amendment to a record uniquely identifies the person making the amendment;

(5) The system employed by the railroad for data storage permits reasonable access and retrieval of the information in usable format when requested to furnish data by FRA representatives; and

(6) Information retrieved from the system can be easily produced in a printed format which can be readily provided to FRA representatives in a timely manner and authenticated by a designated representative of the railroad as a true and accurate copy of the railroad's records if requested to do so by FRA representatives.

■ 25. Section 240.217 is amended by republishing paragraph (a) introductory text, revising paragraphs (a)(1) through (4), adding paragraph (a)(5), and revising paragraph (d) to read as follows:

§ 240.217 Time limitations for making determinations.

(a) A railroad shall not certify or recertify a person as a qualified locomotive engineer in any class of train or engine service, if the railroad is making:

(1) A determination concerning eligibility and the eligibility data being relied on was furnished more than 366 days before the date of the railroad's certification decision;

(2) A determination concerning visual and hearing acuity and the medical examination being relied on was conducted more than 450 days before the date of the railroad's recertification decision;

(3) A determination concerning demonstrated knowledge and the knowledge examination being relied on was conducted more than 366 days before the date of the railroad's certification decision;

(4) A determination concerning demonstrated knowledge and the knowledge examination being relied on was conducted more than 24 months before the date of the railroad's certification decision if the railroad administers a knowledge testing program pursuant to § 240.125 at intervals that do not exceed 24 months; or

(5) A determination concerning demonstrated performance skills and the performance skill testing being relied on was conducted more than 366 days before the date of the railroad's certification decision.

* * * * *

(d) A railroad shall issue each person designated as a certified locomotive engineer a certificate that complies with § 240.223 no later than 30 days from the date of its decision to certify or recertify that person.

■ 26. Section 240.219 is amended by revising paragraphs (a) and (c) and adding paragraph (d) to read as follows:

§ 240.219 Denial of certification.

(a) A railroad shall notify a candidate for certification or recertification of information known to the railroad that forms the basis for denying the person certification and provide the person a reasonable opportunity to explain or rebut that adverse information in writing prior to denying certification. A railroad shall provide the locomotive engineer candidate with any written documents or records, including written statements, related to failure to meet a requirement of this part that support its pending denial decision.

* * * * *

(c) If a railroad denies a person certification or recertification, it shall notify the person of the adverse decision and explain, in writing, the basis for its denial decision. The basis for a railroad's denial decision shall address any explanation or rebuttal information that the locomotive engineer candidate may have provided in writing pursuant to paragraph (a) of this section. The document explaining the basis for the denial shall be served on the person within 10 days after the railroad's decision and shall give the date of the decision.

(d) A railroad shall not deny the person's certification for failing to comply with a railroad operating rule or practice that constitutes a violation under § 240.117(e)(1) through (5) of this part if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the engineer's ability to comply with that railroad operating rule or practice.

■ 27. Section 240.221 is amended by revising paragraphs (d), (e), and (f) to read as follows:

§ 240.221 Identification of qualified persons.

* * * * *

(d) The listing required by paragraphs (a), (b), and (c) of this section shall:

(1) Be updated at least annually;

(2) Be available at the divisional or regional headquarters of the railroad; and

(3) Be available for inspection or copying by FRA during regular business hours.

(e) It shall be unlawful for any railroad to knowingly or any individual to willfully:

(1) Make, cause to be made, or participate in the making of a false entry on the list required by this section; or

(2) Otherwise falsify such list through material misstatement, omission, or mutilation.

(f) Nothing in this section precludes a railroad from maintaining the list required under this section in an electronic format provided that:

(1) The railroad maintains an information technology security program adequate to ensure the integrity of the electronic data storage system, including the prevention of unauthorized access to the program logic or the list;

(2) The program and data storage system must be protected by a security system that utilizes an employee identification number and password, or a comparable method, to establish appropriate levels of program access meeting all of the following standards:

(i) No two individuals have the same electronic identity; and

(ii) An entry on the list cannot be deleted or altered by any individual after the entry is certified by the employee who created the entry;

(3) Any amendment to the list is either:

(i) Electronically stored apart from the entry on the list that it amends; or

(ii) Electronically attached to the entry on the list as information without changing the original entry;

(4) Each amendment to the list uniquely identifies the person making the amendment;

(5) The system employed by the railroad for data storage permits reasonable access and retrieval of the information in usable format when requested to furnish data by FRA representatives; and

(6) Information retrieved from the system can be easily produced in a printed format which can be readily provided to FRA representatives in a timely manner and authenticated by a designated representative of the railroad as a true and accurate copy of the railroad's records if requested to do so by FRA representatives.

■ 28. Section 240.223 is amended by revising paragraph (a)(3) and (5) to read as follows:

§ 240.223 Criteria for the certificate.

(a) * * *

(3) Identify the person to whom it is being issued (including the person's name, employee identification number, the year of birth, and either a physical description or photograph of the person);

* * * * *

(5) Show the effective date of each certification held;

* * * * *

■ 29. Section 240.225 is revised to read as follows:

§ 240.225 Reliance on qualification determinations made by other railroads.

(a) A railroad that is considering certification of a person as a qualified engineer may rely on determinations made by another railroad concerning that person's qualifications. The railroad's certification program shall address how the railroad will administer the training of previously uncertified engineers with extensive operating experience or previously certified engineers who have had their certification expire. If a railroad's certification program fails to specify how it will train a previously certified engineer hired from another railroad, then the railroad shall require the newly hired engineer to take the hiring railroad's entire training program.

(b) A railroad relying on another's certification shall determine that:

(1) The prior certification is still valid in accordance with the provisions of §§ 240.201, 240.217, and 240.307;

(2) The prior certification was for the same classification of locomotive or train service as the certification being issued under this section;

(3) The person has received training on and visually observed the physical characteristics of the new territory in accordance with § 240.123;

(4) The person has demonstrated the necessary knowledge concerning the railroad's operating rules in accordance with § 240.125;

(5) The person has demonstrated the necessary performance skills concerning the railroad's operating rules in accordance with § 240.127.

Subpart D—Administration of the Certification Program

■ 30. Revise the heading of Subpart D to read as set forth above.

■ 31. Section 240.301 is revised to read as follows:

§ 240.301 Replacement of certificates.

(a) A railroad shall have a system for the prompt replacement of lost, stolen or mutilated certificates at no cost to engineers. That system shall be reasonably accessible to certified locomotive engineers in need of a replacement certificate or temporary replacement certificate.

(b) At a minimum, a temporary replacement certificate must identify the person to whom it is being issued (including the person's name, identification number and year of birth); indicate the date of issuance; and be authorized by a supervisor of locomotive engineers or other individual designated in accordance with § 240.223(b). Temporary replacement certificates may be delivered electronically and are valid for a period no greater than 30 days.

■ 32. Section 240.303 is amended by revising paragraphs (b) and (c) to read as follows:

§ 240.303 Operational monitoring requirements.

* * * * *

(b) The program shall be conducted so that each locomotive engineer, except as provided in § 240.129(h), shall be given at least one operational monitoring observation by a qualified supervisor of locomotive engineers in each calendar year.

(c) The program shall be conducted so that each locomotive engineer, except for as provided in § 240.129(h), shall be given at least one unannounced, compliance test each calendar year.

* * * * *

■ 33. Section 240.305 is amended by republishing paragraph (b) introductory text, revising paragraphs (b)(2) introductory text and (b)(2)(ii), redesignating paragraph (b)(2)(iii) as paragraph (b)(2)(iv), and adding new paragraph (b)(2)(iii) to read as follows:

§ 240.305 Prohibited conduct.

* * * * *

(b) Each locomotive engineer who has received a certificate required under this part shall:

* * * * *

(2) Display that certificate upon the receipt of a request to do so from:

* * * * *

(ii) A State inspector authorized under part 212 of this chapter,

(iii) An officer of the issuing railroad, or

* * * * *

■ 34. Section 240.307 is amended by:

■ a. Revising paragraph (a);

■ b. Republishing paragraphs (b);

■ c. Revising paragraphs (b)(1) and (4);

■ d. Redesignating paragraph (b)(5) as paragraph (b)(6);
■ e. Adding a new paragraph (b)(5) and paragraph (b)(7);
■ f. Revising paragraphs (c)(2) and (9);
■ g. Republishing paragraph (c)(11);
■ h. Revising paragraphs (c)(11)(i) and (ii);
■ i. Adding paragraph (c)(11)(iii)
■ i. Revising paragraph (g);
■ j. Republishing paragraph (i) introductory text;
■ k. Revising paragraphs (i)(1) and (2) and (j)(2);

The revisions and additions read as follows:

§ 240.307 Revocation of certification.

(a) Except as provided for in § 240.119(e), a railroad that certifies or recertifies a person as a qualified locomotive engineer and, during the period that certification is valid, acquires reliable information regarding violation(s) of § 240.117(e) or § 240.119(c) of this chapter shall revoke the person's engineer certificate.

(b) Pending a revocation determination under this section, the railroad shall:

(1) Upon receipt of reliable information regarding violation(s) of § 240.117(e) or § 240.119(c) of this chapter, immediately suspend the person's certificate;

* * * * *

(4) No later than the convening of the hearing and notwithstanding the terms of an applicable collective bargaining agreement, the railroad convening the hearing shall provide the person with a copy of the written information and list of witnesses the railroad will present at the hearing. If requested, a recess to the start of the hearing will be granted if that information is not provided until just prior to the convening of the hearing. If the information was provided through statements of an employee of the convening railroad, the railroad will make that employee available for examination during the hearing required by paragraph (b)(3) of this section. Examination may be telephonic where it is impractical to provide the witness at the hearing.

(5) Determine, on the record of the hearing, whether the person no longer meets the certification requirements of this part stating explicitly the basis for the conclusion reached;

* * * * *

(7) Retain the record of the hearing for 3 years after the date the decision is rendered.

(c) * * *

(2) The hearing shall be conducted by a presiding officer, who can be any proficient person authorized by the railroad other than the investigating officer.

* * * * *

(9) The record in the proceeding shall be closed at the conclusion of the hearing unless the presiding officer allows additional time for the submission of information. In such instances, the record shall be left open for such time as the presiding officer grants for that purpose.

* * * * *

(11) The decision shall:

(i) Contain the findings of fact as well as the basis therefor, concerning all material issues of fact presented on the record and citations to all applicable railroad rules and practices;

(ii) State whether the railroad official found that a revocable event occurred and the applicable period of revocation with a citation to § 240.117 or § 240.119; and

(iii) Be served on the employee and the employee's representative, if any, with the railroad to retain proof of that service.

* * * * *

(g) A railroad that has relied on the certification by another railroad under the provisions of § 240.227 or § 240.229, shall revoke its certification if, during the period that certification is valid, the railroad acquires information that convinces it that another railroad has revoked its certification in accordance with the provisions of this section. The requirement to provide a hearing under this section is satisfied when any single railroad holds a hearing and no additional hearing is required prior to a revocation by more than one railroad arising from the same facts.

* * * * *

(i) A railroad:

(1) Shall not revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the locomotive engineer's ability to comply with the railroad operating rule or practice that constitutes a violation under § 240.117(e)(1) through (5) of this part; or

(2) May decide not to revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that the violation of § 240.117(e)(1) through (5) of this part was of a minimal nature and had no direct or potential effect on rail safety.

(j) * * *

(2) Prior to the convening of the hearing provided for in this section.

* * * * *

■ 35. Section 240.308 is added to read as follows:

§ 240.308 Multiple certifications.

(a) A person may hold both conductor and locomotive engineer certification.

(b) A railroad that issues multiple certificates to a person, shall, to the extent possible, coordinate the expiration date of those certificates.

(c) Except as provided in paragraph (d) of this section, a locomotive engineer, including a remote control operator, who is operating a locomotive without an assigned certified conductor must either be:

(1) Certified as both a locomotive engineer under this part and as a conductor under part 242 of this chapter; or

(2) Accompanied by a person certified as a conductor under part 242 of this chapter but who will be attached to the crew in a manner similar to that of an independent assignment.

(d) Passenger railroad operations: If the conductor is removed from a train for a medical, police or other such emergency after the train departs from an initial terminal, the train may proceed to the first location where the conductor can be replaced without incurring undue delay without the locomotive engineer being a certified conductor. However, an assistant conductor or brakeman must be on the train and the locomotive engineer must be informed that there is no certified conductor on the train prior to any movement.

(e) During the duration of any certification interval, a person who holds a current conductor and/or locomotive engineer certificate from more than one railroad shall immediately notify the other certifying railroad(s) if he or she is denied conductor or locomotive engineer recertification under § 240.219 or § 242.401 of this chapter or has his or her conductor or locomotive engineer certification revoked under § 240.307 or § 242.407 of this chapter by another railroad.

(f) A person who holds a current conductor and locomotive engineer certificate and who has had his or her conductor certification revoked under § 242.407 of this chapter for a violation of § 242.403(e)(1) through (5) or (e)(12) may not work as a locomotive engineer during the period of revocation. However, a person who holds a current conductor and locomotive engineer certificate and who has had his or her conductor certification revoked under

§ 242.407 of this chapter for a violation of § 242.403(e)(6) through (11) may work as a locomotive engineer during the period of revocation.

(1) For purposes of determining the period for which a person may not work as a certified locomotive engineer due to a revocation of his or her conductor certification, only violations of § 242.403(e)(1) through (5) or (e)(12) will be counted. Thus, a person who holds a current conductor and locomotive engineer certificate and who has had his or her conductor certification revoked three times in less than 36 months for two violations of § 242.403(e)(6) and one violation of § 242.403(e)(1) would have his or her conductor certificate revoked for 1 year, but would not be permitted to work as a locomotive engineer for one month (*i.e.,* the period of revocation for one violation of § 242.403(e)(1)).

(g) A person who holds a current conductor and locomotive engineer certificate and who has had his or her locomotive engineer certification revoked under § 240.307 of this chapter may not work as a conductor during the period of revocation.

(h) A person who has had his or her locomotive engineer certification revoked under § 240.307 of this chapter may not obtain a conductor certificate pursuant to part 242 of this chapter during the period of revocation.

(i) A person who had his or her conductor certification revoked under § 242.407 of this chapter for violations of § 242.403(e)(1) through (5) or (e)(12) may not obtain a locomotive engineer certificate pursuant to part 240 of this chapter during the period of revocation.

(j) A railroad that denies a person conductor certification or recertification under § 242.401 of this chapter shall not, solely on the basis of that denial, deny or revoke that person's locomotive engineer certification or recertification.

(k) A railroad that denies a person locomotive engineer certification or recertification under § 240.219 shall not, solely on the basis of that denial, deny or revoke that person's conductor certification or recertification.

(l) In lieu of issuing multiple certificates, a railroad may issue one certificate to a person who is certified as a conductor and a locomotive engineer. The certificate must comply with § 240.223 and § 242.207 of this chapter.

(m) A person who holds a current conductor and locomotive engineer certification and who is involved in a revocable event under § 242.407 or § 240.307 of this chapter may only have one certificate revoked for that event. The determination by the railroad as to which certificate to revoke for the revocable event must be based on the work the person was performing at the time the event occurred.

■ 36. Section 240.309 is amended by revising paragraphs (b)(4), (e)(1) and (2), (e)(8) and (9), and (f) through (h) and adding paragraph (i) to read as follows:

§ 240.309 Railroad oversight responsibilities.

* * * * *

(b) * * *

(4) If the railroad conducts joint operations with another railroad, the number of locomotive engineers employed by the other railroad(s) that: Were involved in events described in this paragraph and were determined to be certified and to have possessed the necessary territorial qualifications for joint operations purposes by the controlling railroad.

* * * * *

(e) * * *

(1) Incidents involving noncompliance with part 218 of this chapter;

(2) Incidents involving noncompliance with part 219 of this chapter;

* * * * *

(8) Incidents involving the failure to comply with prohibitions against tampering with locomotive mounted safety devices, or knowingly operating or permitting to be operated a train with an unauthorized or disabled safety device in the controlling locomotive; and

(9) Incidents involving noncompliance with the railroad's operating practices (including train handling procedures) resulting in excessive in-train force levels.

(f) For reporting purposes, an instance of poor safety conduct involving a person who holds both conductor certification pursuant to part 242 of this chapter and locomotive engineer certification pursuant to this part need only be reported once (either under 49 CFR 242.215 of this chapter or this section). The determination as to where to report the instance of poor safety conduct should be based on the work the person was performing at the time the conduct occurred.

(g) For reporting purposes, each category of detected poor safety conduct identified in paragraph (b) of this section shall be capable of being annotated to reflect the following:

(1) The nature of the remedial action taken and the number of events subdivided so as to reflect which of the following actions was selected:

(i) Imposition of informal discipline;

(ii) Imposition of formal discipline;

(iii) Provision of informal training; or

(iv) Provision of formal training; and

(2) If the nature of the remedial action taken was formal discipline, the number of events further subdivided so as to reflect which of the following punishments was imposed by the railroad:

(i) The person was withheld from service;

(ii) The person was dismissed from employment; or

(iii) The person was issued demerits. If more than one form of punishment was imposed only that punishment deemed the most severe shall be shown.

(h) For reporting purposes, each category of detected poor safety conduct identified in paragraph (b) of this section which resulted in the imposition of formal or informal discipline shall be annotated to reflect the following:

(1) The number of instances in which the railroad's internal appeals process reduced the punishment initially imposed at the conclusion of its hearing; and

(2) The number of instances in which the punishment imposed by the railroad was reduced by any of the following entities: The National Railroad Adjustment Board, a Public Law Board, a Special Board of Adjustment or other body for the resolution of disputes duly constituted under the provisions of the Railway Labor Act.

(i) For reporting purposes each category of detected poor safety conduct identified in paragraph (b) of this section shall be capable of being annotated to reflect the following:

(1) The total number of incidents in that category;

(2) The number of incidents within that total which reflect incidents requiring an FRA accident/incident report under part 225 of this chapter; and

(3) The number of incidents within that total which were detected as a result of a scheduled operational monitoring effort.

■ 37. Section 240.401 is revised to read as follows:

§ 240.401 Review board established.

(a) Any person who has been denied certification, denied recertification, or has had his or her certification revoked and believes that a railroad incorrectly determined that he or she failed to meet the certification requirements of this regulation when making the decision to deny or revoke certification, may petition the Federal Railroad Administrator to review the railroad's decision.

(b) The Administrator has delegated initial responsibility for adjudicating such disputes to the Operating Crew Review Board.

(c) The Operating Crew Review Board shall be composed of employees of the Federal Railroad Administration selected by the Administrator.

■ 38. Section 240.403 is amended by revising paragraph (b)(2), adding paragraph (b)(7), revising paragraphs (c) and (d), and removing paragraph (e).

The revisions and addition read as follows:

§ 240.403 Petition requirements.

* * * * *

(b) * * *

(2) Be filed with the Docket Clerk, U.S. Department of Transportation, Docket Operations (M–30), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The form of such request may be in written or electronic form consistent with the standards and requirements established by the Federal Docket Management System and posted on its website at *http://www.regulations.gov*.

* * * * *

(7) Be supplemented, if requested by the Operating Crew Review Board, with a copy of the information under 49 CFR 40.329 that laboratories, medical review officers, and other service agents are required to release to employees. The petitioner must provide written explanation in response to an Operating Crew Review Board request if written documents that should be reasonably available to the petitioner are not supplied.

(c) A petition seeking review of a railroad's decision to deny certification or recertification or revoke certification in accordance with the procedures required by § 240.307 filed with FRA more than 120 days after the date the railroad's denial or revocation decision was served on the petitioner will be denied as untimely except that the Operating Crew Review Board for cause shown may extend the petition filing period at any time in its discretion:

(1) Provided the request for extension is filed before the expiration of the period provided in this paragraph; or

(2) Provided that the failure to timely file was the result of excusable neglect.

(d) A party aggrieved by a Board decision to deny a petition as untimely or not in compliance with the requirements of this section may file an appeal with the Administrator in accordance with § 240.411.

■ 39. Section 240.405 is revised to read as follows:

§ 240.405 Processing certification review petitions.

(a) Each petition shall be acknowledged in writing by FRA. The acknowledgment shall contain the docket number assigned to the petition and a statement of FRA's intention that the Board will attempt to render a decision on this petition within 180 days from the date that the railroad's response is received or from the date upon which the railroad's response period has lapsed pursuant to paragraph (c) of this section.

(b) Upon receipt of the petition, FRA will notify the railroad that it has received the petition and where the petition may be accessed.

(c) Within 60 days from the date of the notification provided in paragraph (b) of this section, the railroad may submit to FRA any information that the railroad considers pertinent to the petition. Late filings will only be considered to the extent practicable.

(d) A railroad that submits such information shall:

(1) Identify the petitioner by name and the docket number of the review proceeding and provide the railroad's email address (if available);

(2) Serve a copy of the information being submitted to FRA to the petitioner and petitioner's representative, if any; and

(3) File the information with the Docket Clerk, U.S. Department of Transportation, Docket Operations (M–30), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The form of such information may be in written or electronic form consistent with the standards and requirements established by the Federal Docket Management System and posted on its website at *http://www.regulations.gov*.

(e) Each petition will then be referred to the Operating Crew Review Board for a decision.

(f) Based on the record, the Board shall have the authority to grant, deny, dismiss, or remand the petition.

(g) If the Board finds that there is insufficient basis for granting or denying the petition, the Board shall issue an order affording the parties an opportunity to provide additional information or argument consistent with its findings.

(h) Standard of review for factual issues: When considering factual issues, the Board will determine whether there is substantial evidence to support the railroad's decision, and a negative finding is grounds for granting the petition.

(i) Standard of review for procedural issues: When considering procedural issues, the Board will determine whether substantial harm was caused the petitioner by virtue of the failure to adhere to the dictated procedures for making the railroad's decision. A finding of substantial harm is grounds for reversing the railroad's decision. To establish grounds upon which the Board may grant relief, Petitioner must show:

(1) That procedural error occurred, and

(2) The procedural error caused substantial harm.

(j) Standard of review for legal issues: Pursuant to its reviewing role, the Board will consider whether the railroad's legal interpretations are correct based on a *de novo* review.

(k) The Board will determine whether the denial or revocation of certification or recertification was improper under this regulation (*i.e.,* based on an incorrect determination that the person failed to meet the certification requirements of this regulation) and grant or deny the petition accordingly. The Board will not otherwise consider the propriety of a railroad's decision, *i.e.,* it will not consider whether the railroad properly applied its own more stringent requirements.

(l) The Board's written decision shall be served on the petitioner, including the petitioner's representative, if any, and the railroad.

■ 40. Section 240.407 is amended by revising paragraphs (a) and (c), republishing paragraph (d) introductory text, and revising paragraph (d)(1) to read as follows:

§ 240.407 Request for a hearing.

(a) If adversely affected by the Operating Crew Review Board's decision, either the petitioner before the Board or the railroad involved shall have a right to an administrative proceeding as prescribed by § 240.409.

* * * * *

(c) If a party fails to request a hearing within the period provided in paragraph (b) of this section, the Operating Crew Review Board's decision will constitute final agency action.

(d) If a party elects to request a hearing, that person shall submit a written request to the Docket Clerk containing the following:

(1) The name, address, telephone number, and email address (if available) of the respondent and the requesting party's designated representative, if any;

* * * * *

■ 41. Section 240.409 is amended by revising paragraphs (a), (p), and (q) to read as follows:

§ 240.409 Hearings.

(a) An administrative hearing for a locomotive engineer certification petition shall be conducted by a presiding officer, who can be any person

authorized by the Administrator, including an administrative law judge.

* * * * *

(p) The petitioner before the Operating Crew Review Board, the railroad involved in taking the certification action, and FRA shall be parties at the hearing. All parties may participate in the hearing and may appear and be heard on their own behalf or through designated representatives. All parties may offer relevant evidence, including testimony, and may conduct such cross-examination of witnesses as may be required to make a record of the relevant facts.

(q) The party requesting the administrative hearing shall be the ''hearing petitioner.'' The hearing petitioner shall have the burden of proving its case by a preponderance of the evidence. Hence, if the hearing petitioner is the railroad involved in taking the certification action, that railroad will have the burden of proving that its decision to deny certification, deny recertification, or revoke certification was correct. Conversely, if the petitioner before the Operating Crew Review Board is the hearing petitioner, that person will have the burden of proving that the railroad's decision to deny certification, deny recertification, or revoke certification was incorrect. Between the petitioner before the Operating Crew Review Board and the railroad involved in taking the certification action, the party who is not the hearing petitioner will be a respondent.

* * * * *

■ 42. Section 240.411 is amended by revising paragraphs (a) and (f) to read as follows:

§ 240.411 Appeals.

(a) Any party aggrieved by the presiding officer's decision may file an appeal. The appeal must be filed within 35 days of issuance of the decision with the Federal Railroad Administrator, 1200 New Jersey Avenue SE, Washington, DC 20590 and with the Docket Clerk, U.S. Department of Transportation, Docket Operations (M–30), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. A copy of the appeal shall be served on each party. The appeal shall set forth objections to the presiding officer's decision, supported by reference to applicable laws and regulations and with specific reference to the record. If no appeal is timely filed, the presiding officer's decision constitutes final agency action.

* * * * *

(f) An appeal from an Operating Crew Review Board decision pursuant to § 240.403(d) must be filed within 35 days of issuance of the decision with the Federal Railroad Administrator, 1200 New Jersey Avenue SE, Washington, DC 20590 and with the Docket Clerk, U.S. Department of Transportation, Docket Operations (M–30), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. A copy of the appeal shall be served on each party. The Administrator may affirm or vacate the Board's decision, and may remand the petition to the Board for further proceedings. An Administrator's decision to affirm the Board's decision constitutes final agency action.

■ 43. Revise Appendix B to part 240 to read as follows:

Appendix B to Part 240—Procedures for Submission and Approval of Locomotive Engineer Qualification Programs

This appendix establishes procedures for the submission and approval of a railroad's program concerning the training, testing, and evaluating of persons seeking certification or recertification as a locomotive engineer in accordance with the requirements of this part (see §§ 240.101, 240.103, 240.105, 240.107, 240.123, 240.125, 240.127 and 240.129). It also contains guidance on how FRA will exercise its review and approval responsibilities.

Submission by a Railroad

As provided for in § 240.101, each railroad must have a program for determining the certification of each person it permits or requires to operate a locomotive. In designing its program a railroad must take into account the trackage and terrain over which it operates, the system(s) for train control that are employed, the operational design characteristics of the track and equipment being operated including train length, train makeup, and train speeds. Each railroad must submit its individual program to FRA for approval as provided for in § 240.103. Each program must be accompanied by a request for approval organized in accordance with this appendix. Requests for approval must contain appropriate references to the relevant portion of the program being discussed. Requests should be submitted in writing on standard sized paper (8–1/2×11) and can be in letter or narrative format. The railroad's submission shall be sent to the Associate Administrator for Railroad Safety/Chief Safety Officer, FRA. The mailing address for FRA is 1200 New Jersey Avenue SE, Washington, DC 20590. Simultaneous with its filing with the FRA, each railroad must serve a copy of its submission on the president of each labor organization that represents the railroad's employees subject to this part.

Each railroad is authorized to file by electronic means any program submissions required under this part. Prior to any person submitting a railroad's first program submission electronically, the person shall provide the Associate Administrator with the following information in writing:

(1) The name of the railroad;

(2) The names of two individuals, including job titles, who will be the railroad's points of contact and will be the only individuals allowed access to FRA's secure document submission site;

(3) The mailing addresses for the railroad's points of contact;

(4) The railroad's system or main headquarters address located in the United States;

(5) The email addresses for the railroad's points of contact; and

(6) The daytime telephone numbers for the railroad's points of contact.

A request for electronic submission or FRA review of written materials shall be addressed to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Upon receipt of a request for electronic submission that contains the information listed above, FRA will then contact the requestor with instructions for electronically submitting its program.

A railroad that electronically submits an initial program or new portions or revisions to an approved program required by this part shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email. FRA may electronically store any materials required by this part regardless of whether the railroad that submits the materials does so by delivering the written materials to the Associate Administrator and opts not to submit the materials electronically. A railroad that opts not to submit the materials required by this part electronically, but provides one or more email addresses in its submission, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email or mail.

Organization of the Submission

Each request should be organized to present the required information in the following standardized manner. Each section must begin by giving the name, title, telephone number, and email and mailing addresses of the person to be contacted concerning the matters addressed by that section. If a person is identified in a prior section, it is sufficient to merely repeat the person's name in a subsequent section.

Section 1 of the Submission: General Information and Elections

The first section of the request must contain the name of the railroad, the person to be contacted concerning the request (including the person's name, title, telephone number, and email and mailing addresses) and a statement electing either to accept responsibility for educating previously untrained persons to be qualified locomotive engineers or recertify only engineers previously certified by other railroads. *See* § 240.103(b).

If a railroad elects not to provide initial locomotive engineer training, the railroad is

obligated to states so in its submission. A railroad that makes this election will be limited to recertifying persons initially certified by another railroad. A railroad that makes this election can rescind it by obtaining FRA approval of a modification of its program. *See* § 240.103(e).

If a railroad elects to accept responsibility for training persons not previously trained to be locomotive engineers, the railroad is obligated to submit information on how such persons will be trained but has no duty to actually conduct such training. A railroad that elects to accept the responsibility for the training of such persons may authorize another railroad or a non-railroad entity to perform the actual training effort. The electing railroad remains responsible for assuring that such other training providers adhere to the training program the railroad submits.

This section must also state which class or classes of service the railroad will employ. *See* § 240.107.

Section 2 of the Submission: Selection of Supervisors of Locomotive Engineers

The second section of the request must contain information concerning the railroad's procedure for selecting the person or persons it will rely on to evaluate the knowledge, skill, and ability of persons seeking certification or recertification. As provided for in § 240.105, each railroad must have a procedure for selecting supervisors of locomotive engineers which assures that persons so designated can appropriately test and evaluate the knowledge, skill, and ability of individuals seeking certification or recertification.

Section 240.105 provides a railroad latitude to select the criteria and evaluation methodology it will rely on to determine which person or persons have the required capacity to perform as a supervisor of locomotive engineers. The railroad must describe in this section how it will use that latitude and evaluate those it designates as supervisors of locomotive engineers so as to comply with the performance standard set forth in § 240.105(b). The railroad must identify, in sufficient detail to permit effective review by FRA, the criteria for evaluation it has selected. For example, if a railroad intends to rely on one or more of the following, a minimum level of prior experience as an engineer, successful completion of a course of study, or successful passage of a standardized testing program, the submission must state which criteria it will employ.

Section 3 of the Submission: Training Persons Previously Certified

The third section of the request must contain information concerning the railroad's program for training previously certified locomotive engineers. As provided for in § 240.123(b) each railroad must have a program for the ongoing education of its locomotive engineers to assure that they maintain the necessary knowledge concerning personal safety, operating rules and practices, mechanical condition of equipment, methods of safe train handling (including familiarity with physical characteristics), and relevant Federal safety rules.

Section 240.123(b) provides a railroad latitude to select the specific subject matter to be covered, duration of the training, method of presenting the information, and the frequency with which the training will be provided. The railroad must describe in this section how it will use that latitude to assure that its engineers remain knowledgeable concerning the safe discharge of their train operation responsibilities so as to comply with the performance standard set forth in § 240.123(b). This section must contain sufficient detail to permit effective evaluation of the railroad's training program in terms of the subject matter covered, the frequency and duration of the training sessions, the type of formal training employed (including, but not limited to, classroom, computer-based, correspondence, OJT, simulator, or laboratory training) and which aspects of the program are voluntary or mandatory.

Without assistance from automation, safe train handling involves both abstract knowledge about the appropriate use of engine controls and the application of that knowledge to trains of differing composition traversing varying terrain. Time and circumstances have the capacity to diminish both abstract knowledge and the proper application of that knowledge to discrete events. Time and circumstances also have the capacity to alter the value of previously obtained knowledge and the application of that knowledge. In formulating how it will use the discretion being afforded, each railroad must design its program to address both loss of retention of knowledge and changed circumstances, and this section of the submission to FRA must address these matters.

For example, locomotive engineers need to have their fundamental knowledge of train operations refreshed periodically. Each railroad needs to advise FRA how that need is satisfied in terms of the interval between attendance at such training, the nature of the training being provided, and methods for conducting the training. A matter of particular concern to FRA is how each railroad acts to ensure that engineers remain knowledgeable about safe train handling procedures if the territory over which a locomotive engineer is authorized to operate is territory from which the engineer has been absent. The railroad must have a plan for the familiarization training that addresses the question of how long a person can be absent before needing more education and, once that threshold is reached, how the person will acquire the needed education. Similarly, the program must address how the railroad responds to changes such as the introduction of new technology, new operating rule books, or significant changes in operations including alteration in the territory engineers are authorized to operate over.

Section 4 of the Submission: Testing and Evaluating Persons Previously Certified

The fourth section of the request must contain information concerning the railroad's program for testing and evaluating previously certified locomotive engineers. As provided for in § 240.125 and § 240.127, each railroad must have a program for the ongoing testing and evaluating of its locomotive engineers to ensure that they have the necessary knowledge and skills concerning personal safety, operating rules and practices, mechanical condition of equipment, methods of safe train handling (including familiarity with physical characteristics), and relevant Federal safety rules. Similarly, each railroad must have a program for ongoing testing and evaluating to ensure that its locomotive engineers have the necessary vision and hearing acuity as provided for in § 240.121.

Sections 240.125 and 240.127 require that a railroad rely on written procedures for determining that each person can demonstrate his or her knowledge of the railroad's rules and practices and skill at applying those rules and practices for the safe operation of a locomotive or train. Section 240.125 directs that, when seeking a demonstration of the person's knowledge, a railroad must employ a written test that contains objective questions and answers and covers the following subject matters: (i) Personal safety practices; (ii) operating practices; (iii) equipment inspection practices; (iv) train handling practices (including familiarity with the physical characteristics of the territory); and (v) compliance with relevant Federal safety rules. The test must accurately measure the person's knowledge of all of these areas.

Section 240.125 provides a railroad latitude in selecting the design of its own testing policies (including the number of questions each test will contain, how each required subject matter will be covered, weighting (if any) to be given to particular subject matter responses, selection of passing scores, and the manner of presenting the test information). The railroad must describe in this section how it will use that latitude to ensure that its engineers will demonstrate their knowledge concerning the safe discharge of their train operation responsibilities so as to comply with the performance standard set forth in § 240.125.

Section 240.127 directs that, when seeking a demonstration of the person's skill, a railroad must employ a test and evaluation procedure conducted by a designated supervisor of locomotive engineers that contains an objective evaluation of the person's skills at applying the railroad's rules and practices for the safe operation of trains. The test and evaluation procedure must examine the person's skills in terms of all of the following subject matters: (i) Operating practices; (ii) equipment inspection practices; (iii) train handling practices (including familiarity with the physical characteristics of the territory); and (iv) compliance with relevant Federal safety rules. The test must be sufficient to effectively examine the person's skills while operating a train in the most demanding type of service which the person is likely to encounter in the normal course of events once he or she is deemed qualified.

Section 240.127 provides a railroad latitude in selecting the design of its own testing and evaluation procedures (including the duration of the evaluation process, how each required subject matter will be covered, weighing (if any) to be given to particular

subject matter response, selection of passing scores, and the manner of presenting the test information). However, the railroad must describe the scoring system used by the railroad during a skills test administered in accordance with the procedures required under § 240.211. The description shall include the skills to be tested and the weight or possible score that each skill will be given. The section should also provide information concerning the procedures which the railroad will follow that achieve the objectives described in FRA's recommended practices (*see* appendix E) for conducting skill performance testing. The section also gives a railroad the latitude to employ either a Type 1 or a Type 2 simulator (properly programmed) to conduct the test and evaluation procedure. A railroad must describe in this section how it will use that latitude to assure that its engineers will demonstrate their skills concerning the safe discharge of their train operation responsibilities so as to comply with the performance standard set forth in § 240.127.

Section 240.121 provides a railroad latitude to rely on the professional medical opinion of the railroad's medical examiner concerning the ability of a person with substandard acuity to safely operate a locomotive. The railroad must describe in this section how it will ensure that its medical examiner has sufficient information concerning the railroad's operations to effectively form appropriate conclusions about the ability of a particular individual to safely operate a train.

Section 5 of the Submission: Training, Testing, and Evaluating Persons Not Previously Certified

Unless a railroad has made an election not to accept responsibility for conducting the initial training of persons to be locomotive engineers, the fifth section of the request must contain information concerning the railroad's program for educating, testing, and evaluating persons not previously trained as locomotive engineers. As provided for in § 240.123(c), a railroad that is issuing an initial certification to a person to be a locomotive engineer must have a program for the training, testing, and evaluating of its locomotive engineers to ensure that they acquire the necessary knowledge and skills concerning personal safety, operating rules and practices, mechanical condition of equipment, methods of safe train handling (including familiarity with physical characteristics), and relevant Federal safety rules.

Section 240.123 establishes a performance standard and gives a railroad latitude in selecting how it will meet that standard. A railroad must describe in this section how it will use that latitude to ensure that its engineers will acquire sufficient knowledge and skill and demonstrate their knowledge and skills concerning the safe discharge of their train operation responsibilities. This section must contain the same level of detail concerning initial training programs as that described for each of the components of the overall program contained in sections 2 through 4 of this appendix. A railroad that plans to accept responsibility for the initial training of locomotive engineers may authorize another railroad or a non-railroad entity to perform the actual training effort as long as the other entity complies with the requirements for training organizations and learning institutions in § 243.111 of this chapter. The authorizing railroad may submit a training program developed by that authorized trainer but the authorizing railroad remains responsible for ensuring that such other training providers adhere to the training program submitted. Railroads that elect to rely on other entities, to conduct training away from the railroad's own territory, must indicate how the student will be provided with the required familiarization with the physical characteristics for its territory.

Section 6 of the Submission: Monitoring Operational Performance by Certified Engineers

The final section of the request must contain information concerning the railroad's program for monitoring the operation of its certified locomotive engineers. As provided for in § 240.129, each railroad must have a program for the ongoing monitoring of its locomotive engineers to ensure that they operate their locomotives in conformity with the railroad's operating rules and practices including methods of safe train handling and relevant Federal safety rules.

Section 240.129 requires that a railroad annually observe each locomotive engineer demonstrating his or her knowledge of the railroad's rules and practices and skill at applying those rules and practices for the safe operation of a locomotive or train. Section 240.129 directs that the observation be conducted by a designated supervisor of locomotive engineers but provides a railroad latitude in selecting the design of its own observation procedures (including the duration of the observation process, reliance on event recorder downloads that record the specifics of train operation, and the specific aspects of the engineer's performance to be covered). The section also gives a railroad the latitude to employ either a Type 1 or a Type 2 simulator (properly programmed) to conduct monitoring observations. A railroad must describe in this section how it will use that latitude to assure that the railroad is monitoring that its engineers demonstrate their skills concerning the safe discharge of their train operation responsibilities. A railroad must also describe the scoring system used by the railroad during an operational monitoring observation or unannounced compliance test administered in accordance with the procedures required under § 240.303. A railroad that intends to employ train operation event recorder tapes to comply with this monitoring requirement shall indicate in this section how it anticipates determining what person was at the controls and what signal indications or other operational constraints, if any, were applicable to the train's movement.

Section 7 of the Submission: Procedures for Routine Administration of the Engineer Certification Program

The final section of the request must contain a summary of how the railroad's program and procedures will implement the various specific aspects of the regulatory provisions that relate to routine administration of its certification program for locomotive engineers. At a minimum this section needs to address the procedural aspects of the rule's provisions identified in the following paragraph.

Section 240.109 provides that each railroad must have procedures for review and comment on adverse prior safety conduct, but allows the railroad to devise its own system within generalized parameters. Sections 240.115, 240.117 and 240.119 require a railroad to have procedures for evaluating data concerning prior safety conduct as a motor vehicle operator and as railroad workers, yet leave selection of many details to the railroad. Sections 240.203, 240.217, and 240.219 place a duty on the railroad to make a series of determinations but allow the railroad to select what procedures it will employ to assure that all of the necessary determinations have been made in a timely fashion; who will be authorized to conclude that person is or is not qualified; and how it will communicate adverse decisions. Documentation of the factual basis the railroad relied on in making determinations under §§ 240.205, 240.207, 240.209, 240.211, and 240.213 is required, but these sections permit the railroad to select the procedures it will employ to accomplish compliance with these provisions. Sections 240.225 and 240.227 permit reliance on qualification determinations made by other entities and permit a railroad latitude in selecting the procedures it will employ to ensure compliance with these provisions. Similarly, § 240.229 permits use of railroad selected procedures to meet the requirements for certification of engineers performing service in joint operations territory. Sections 240.301 and 240.307 allow a railroad a certain degree of discretion in complying with the requirements for replacing lost certificates or the conduct of certification revocation proceedings.

This section of the request should outline in summary fashion the manner in which the railroad will implement its program so as to comply with the specific aspects of each of the rule's provisions described in preceding paragraph.

FRA Review

The submissions made in conformity with this appendix will be deemed approved within 30 days after the required filing date or the actual filing date whichever is later. No formal approval document will be issued by FRA. The brief interval for review reflects FRA's judgment that railroads generally already have existing programs that will meet the requirements of this part. FRA has taken the responsibility for notifying a railroad when it detects problems with the railroad's program. FRA retains the right to disapprove a program that has obtained approval due to the passage of time as provided for in section § 240.103.

Rather than establish rigid requirements for each element of the program, FRA has given railroads discretion to select the design of their individual programs within a specified

context for each element. The rule, however, provides a good guide to the considerations that should be addressed in designing a program that will meet the performance standards of this rule. In reviewing program submissions, FRA will focus on the degree to which a particular program deviates from the norms set out in its rule. To the degree that a particular program submission materially deviates from the norms set out in its rule, FRA's review and approval process will be focused on determining the validity of the reasoning relied on by a railroad for selecting its alternative approach and the degree to which the alternative approach is likely to be effective in producing locomotive engineers who have the knowledge, skill, and ability to safely operate trains.

■ 44. Revise appendix C to part 240 is to read as follows:

Appendix C to Part 240—Procedures for Obtaining and Evaluating Motor Vehicle Driving Record Data

The purpose of this appendix is to outline the procedures available to individuals and railroads for complying with the requirements of section 4(a) of the Railroad Safety Improvement Act of 1988 and §§ 240.109, 240.111, and 240.205 of this part. Those provisions require that railroads consider the motor vehicle driving record of each person prior to issuing him or her certification or recertification as a locomotive engineer.

To fulfill that obligation, a railroad must review a certification candidate's recent motor vehicle driving record. Generally, that will be a single record on file with the state agency that issued the candidate's current license. However, it can include multiple records if the candidate has been issued a motor vehicle driving license by more than one state agency or foreign country. In addition, the railroad must determine whether the certification candidate is listed in the National Driver Register and, if so listed, to review the data that caused the candidate to be so listed.

Access to State Motor Vehicle Driving Record Data

The right of railroad workers, their employers, or prospective employers to have access to a state motor vehicle licensing agency's data concerning an individual's driving record is controlled by state law. Although many states have mechanisms through which employers and prospective employers such as railroads can obtain such data, there are some states in which privacy concerns make such access very difficult or impossible. Since individuals generally are entitled to obtain access to driving record data that will be relied on by a state motor vehicle licensing agency when that agency is taking action concerning their driving privileges, FRA places responsibility on individuals, who want to serve as locomotive engineers to request that their current state drivers licensing agency or agencies furnish such data directly to the railroad considering certifying them as a locomotive operator. Depending on the procedures adopted by a particular state agency, this will involve the candidate's either sending the state agency a brief letter requesting such action or executing a state agency form that accomplishes the same effect. It will normally involve payment of a nominal fee established by the state agency for such a records check. In rare instances, when a certification candidate has been issued multiple licenses, it may require more than a single request.

The National Driver Register

In addition to seeking an individual state's data, each engineer candidate is required to request that a search and retrieval be performed of any relevant information concerning his or her driving record contained in the National Driver Register (NDR). The NDR is a system of information created by Congress in 1960. In essence it is a nationwide repository of information on problem drivers that was created in an effort to protect motorists. It is a voluntary State/Federal cooperative program that assists motor vehicle driver licensing agencies in gaining access to data about actions taken by other state agencies concerning an individual's motor vehicle driving record. The NDR is designed to address the problem that occurs when chronic traffic law violators, after losing their license in one State travel to and receive licenses in another State. Today, each State and the District of Columbia are required to send information on all revocations, suspensions, and license denials within 31 days of receipt of the convictions from the courts to the NDR and each of these driver licensing agencies have the capability to provide NDR's data. 49 U.S.C. 30304. The NDR data can also be obtained by contacting the National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation directly.

The information submitted to NHTSA contains, at a minimum, three specific pieces of data: The identification of the state authority providing the information, the name of the person whose license is being affected, and the date of birth of that person. It may be supplemented by data concerning the person's height, weight, color of eyes, and social security account number, if a State collects such data.

Access to NDR Data

Essentially only individuals and state licensing agencies, including the District of Columbia, can obtain access to the NDR data. Since railroads have no direct access to the NDR data, FRA requires that individuals seeking certification as a locomotive engineer request that an NDR search be performed and direct that the results be furnished to the railroad. FRA requires that each person request the NDR information directly from NHTSA unless the prospective operator has a motor vehicle driver license issued by a state motor vehicle licensing agency or the District of Columbia. Participating states and the District of Columbia can directly access the NDR data on behalf of the prospective engineer.

Requesting NHTSA To Perform the NDR Check

The procedures for requesting NHTSA performance of an NDR check are as follows:

1. Each person shall submit a written request to the National Highway Traffic Safety Administration at the following address: Chief, National Driver Register, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

2. The request must contain:

(a) The full legal name;

(b) Any other names used by the person (*e.g.,* nickname or professional name);

(c) The date of birth;

(d) Sex;

(e) Height;

(f) Weight;

(g) Color of eyes; and

(h) Driver's license number (unless that is not available).

3. The request must authorize NHTSA to perform the NDR check and to furnish the results of the search directly to the railroad.

4. The request must identify the railroad to which the results are to be furnished, including the proper name of the railroad, and the proper mailing address of the railroad.

5. The person seeking to become a certified locomotive engineer shall sign the request, and that signature must be notarized.

FRA requires that the request be in writing and contain as much detail as is available to improve the reliability of the data search. Any person may supply additional information to that being mandated by FRA. Furnishing additional information, such as the person's Social Security account number, will help to more positively identify any records that may exist concerning the requester. Although no fee is charged for such NDR checks, a minimal cost may be incurred in having the request notarized. The requirement for notarization is designed to ensure that each person's right to privacy is being respected and that records are only being disclosed to legally authorized parties.

Requesting a State Agency To Perform the NDR Check

As discussed earlier in connection with obtaining data compiled by the state agency itself, a person can either write a letter to that agency asking for the NDR check or can use the agency's forms for making such a request. If a request is made by letter the individual must follow the same procedures required when directly seeking the data from NHTSA. Since it would be more efficient for a prospective locomotive engineer to make a single request for both aspects of the information required under this rule, FRA anticipates that a state agency inquiry should be the predominant method for making these NDR checks. Requests to state agencies may involve payment of a nominal fee established by the state agency for such a records check.

State agencies normally will respond in approximately 30 days or less and advise whether there is or is not a listing for a person with that name and date of birth. If there is a potential match and the inquiry state was not responsible for causing that entry, the agency normally will indicate in writing the existence of a probable match and will identify the state licensing agency that suspended, revoked or canceled the relevant license or convicted the person of one of the violations referenced earlier in this appendix.

Actions When a Probable NDR Match Occurs

The response provided after performance of an NDR check is limited to either a notification that no potential record match was identified or a notification that a potential record match was identified. If the latter event occurs, the notification will include the identification of the state motor vehicle licensing authority which possesses the relevant record. If the NDR check results indicate a potential match and that the state with the relevant data is the same state which furnished detailed data (because it had issued the person a driving license), no further action is required to obtain additional data. If the NDR check results indicate a potential match and the state with the relevant data is different from the state which furnished detailed data, it then is necessary to contact the individual state motor vehicle licensing authority that furnished the NDR information to obtain the relevant record. FRA places responsibility on the railroad to notify the engineer candidate and on the candidate to contact the state with the relevant information. FRA requires the certification candidate to write to the state licensing agency and request that the agency inform the railroad concerning the person's driving record. If required by the state agency, the person may have to pay a nominal fee for providing such data and may have to furnish written evidence that the prospective operator consents to the release of the data to the railroad. FRA does not require that a railroad or a certification candidate go beyond these efforts to obtain the information in the control of such a state agency, and a railroad may act upon the pending certification without the data if an individual state agency fails or refuses to supply the records.

If the non-issuing state licensing agency does provide the railroad with the available records, the railroad must verify that the record pertains to the person being considered for certification. It is necessary to perform this verification because in some instances only limited identification information is furnished for use in the NDR and this might result in data about a different person being supplied to the railroad. Among the available means for verifying that the additional state record pertains to the certification candidate are physical description, photographs and handwriting comparisons.

Once the railroad has obtained the motor vehicle driving record(s) which, depending on the circumstance, may consist of more than two documents, the railroad must afford the prospective engineer an opportunity to review that record and respond in writing to its contents in accordance with the provisions of § 240.219. The review opportunity must occur before the railroad evaluates that record. The railroad's required evaluation and subsequent decision making must be done in compliance with the provisions of this part.

■ 45. Revise appendix D to part 240 to read as follows:

Appendix D to Part 240—Identification of State Agencies That Perform National Driver Register Checks

Under the provisions of § 240.111 of this part, each person seeking certification or recertification as a locomotive operator must request that a check of the National Driver Register (NDR) be conducted and that the resulting information be furnished to his or her employer or prospective employer. Under the provisions of paragraphs (d) and (e) of § 240.111, each person seeking certification or recertification as a locomotive engineer must request that the National Highway Traffic Safety Administration (NHTSA) conduct the NDR check, unless he or she was issued a motor vehicle driver license by one of the state agencies that perform such checks, which today includes all state agencies and the District of Columbia. If the certification candidate received a license from one of the state agencies or the District of Columbia, he or she must request the state agency to perform the NDR check. Since these state agencies can more efficiently supply the desired data and, in some instances, can provide a higher quality of information, FRA requires that certification candidates make use of this method in preference to directly contacting NHTSA.

■ 46. Add appendix G to part 240 to read as follows:

Appendix G to Part 240—Application of Revocable Events

Part 240 and Part 242 Revocable Events		Application of Part 240 and Part 242 Revocable Events						
		Periods of Revocation					Employees with Multiple Certifications	
		Main Track				Other than Main Track Where Restricted Speed or the Operational Equivalent Is in	Main Track or Other than Main Track	
		1st Offense	2nd Within Months	3rd Offense Within 36 Months	4th Offense Within 36 Months	No Offense Within Previous 12 Months	Offense (as a Conductor)	Offense (as an Engineer)
1	Signal requiring complete stop before passing	30 Days	6 Months	1 Year	3 Years	Not Applicable	Employee May Not Work as an Engineer During the Period of Revocatio	Employee May Not Work as a Conductor During the Period of Revocation
2	Restricted Speed & Speed; 10 mph over							
3	Required Air Brake Test							
4	Occupying Main Track without Authority							
5	Disabling a Safety Device							
6	Shoving Movements					Half Revocation Period	Employee May Work as an Engineer During the Period of Revocation	Not applicable
7	Equipment Fouling Adjacent Tracks							
8	Hand Operated Switches (Crossovers)							
9	Hand Operated Switches Connected to Main Track					Not Applicable		
10	Hand Operated Crossover Switches (before & after movement)					Half Revocation Period		
11	Hand Operated Derails							
12	Drug & Alcohol	Different periods of revocation may be applied (see 240.117, 240.119, 242.403, & 242.115)				Not Applicable	Employee May Not Work as an Engineer During the Period of Revocation	Employee May Not as a Conductor the Period of

Issued in Washington, DC.

Ronald L. Batory,

Administrator.

[FR Doc. 2019–09028 Filed 5–8–19; 8:45 am]

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FEDERAL REGISTER

Vol. 84 Thursday,
No. 90 May 9, 2019

Part III

The President

Executive Order 13870—America's Cybersecurity Workforce
Proclamation 9876—National Hurricane Preparedness Week, 2019
Proclamation 9877—National Small Business Week, 2019
Proclamation 9878—Public Service Recognition Week, 2019
Proclamation 9879—Missing and Murdered American Indians and Alaska Natives Awareness Day, 2019

Federal Register
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Thursday, May 9, 2019

Presidential Documents

Title 3—

The President

Executive Order 13870 of May 2, 2019

America's Cybersecurity Workforce

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to better ensure continued American economic prosperity and national security, it is hereby ordered as follows:

Section 1. *Policy.* (a) America's cybersecurity workforce is a strategic asset that protects the American people, the homeland, and the American way of life. The National Cyber Strategy, the President's 2018 Management Agenda, and Executive Order 13800 of May 11, 2017 (Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure), each emphasize that a superior cybersecurity workforce will promote American prosperity and preserve peace. America's cybersecurity workforce is a diverse group of practitioners who govern, design, defend, analyze, administer, operate, and maintain the data, systems, and networks on which our economy and way of life depend. Whether they are employed in the public or private sectors, they are guardians of our national and economic security.

(b) The United States Government must enhance the workforce mobility of America's cybersecurity practitioners to improve America's national cybersecurity. During their careers, America's cybersecurity practitioners will serve in various roles for multiple and diverse entities. United States Government policy must facilitate the seamless movement of cybersecurity practitioners between the public and private sectors, maximizing the contributions made by their diverse skills, experiences, and talents to our Nation.

(c) The United States Government must support the development of cybersecurity skills and encourage ever-greater excellence so that America can maintain its competitive edge in cybersecurity. The United States Government must also recognize and reward the country's highest-performing cybersecurity practitioners and teams.

(d) The United States Government must create the organizational and technological tools required to maximize the cybersecurity talents and capabilities of American workers—especially when those talents and capabilities can advance our national and economic security. The Nation is experiencing a shortage of cybersecurity talent and capability, and innovative approaches are required to improve access to training that maximizes individuals' cybersecurity knowledge, skills, and abilities. Training opportunities, such as work-based learning, apprenticeships, and blended learning approaches, must be enhanced for both new workforce entrants and those who are advanced in their careers.

(e) In accordance with Executive Order 13800, the President will continue to hold heads of executive departments and agencies (agencies) accountable for managing cybersecurity risk to their enterprises, which includes ensuring the effectiveness of their cybersecurity workforces.

Sec. 2. *Strengthening the Federal Cybersecurity Workforce.* (a) To grow the cybersecurity capability of the United States Government, increase integration of the Federal cybersecurity workforce, and strengthen the skills of Federal information technology and cybersecurity practitioners, the Secretary of Homeland Security, in consultation with the Director of the Office of Management and Budget (OMB) and the Director of the Office of Personnel Management (OPM), shall establish a cybersecurity rotational assignment program, which will serve as a mechanism for knowledge transfer and a development

program for cybersecurity practitioners. Within 90 days of the date of this order, the Secretary of Homeland Security, in consultation with the Directors of OMB and OPM, shall provide a report to the President that describes the proposed program, identifies its resource implications, and recommends actions required for its implementation. The report shall evaluate how to achieve the following objectives, to the extent permitted by applicable law, as part of the program:

(i) The non-reimbursable detail of information technology and cybersecurity employees, who are nominated by their employing agencies, to serve at the Department of Homeland Security (DHS);

(ii) The non-reimbursable detail of experienced cybersecurity DHS employees to other agencies to assist in improving those agencies' cybersecurity risk management;

(iii) The use of the National Initiative for Cybersecurity Education Cybersecurity Workforce Framework (NICE Framework) as the basis for cybersecurity skill requirements for program participants;

(iv) The provision of training curricula and expansion of learning experiences to develop participants' skill levels; and

(v) Peer mentoring to enhance workforce integration.

(b) Consistent with applicable law and to the maximum extent practicable, the Administrator of General Services, in consultation with the Director of OMB and the Secretary of Commerce, shall:

(i) Incorporate the NICE Framework lexicon and taxonomy into workforce knowledge and skill requirements used in contracts for information technology and cybersecurity services;

(ii) Ensure that contracts for information technology and cybersecurity services include reporting requirements that will enable agencies to evaluate whether personnel have the necessary knowledge and skills to perform the tasks specified in the contract, consistent with the NICE Framework; and

(iii) Provide a report to the President, within 1 year of the date of this order, that describes how the NICE Framework has been incorporated into contracts for information technology and cybersecurity services, evaluates the effectiveness of this approach in improving services provided to the United States Government, and makes recommendations to increase the effective use of the NICE Framework by United States Government contractors.

(c) Within 180 days of the date of this order, the Director of OPM, in consultation with the Secretary of Commerce, the Secretary of Homeland Security, and the heads of other agencies as appropriate, shall identify a list of cybersecurity aptitude assessments for agencies to use in identifying current employees with the potential to acquire cybersecurity skills for placement in reskilling programs to perform cybersecurity work. Agencies shall incorporate one or more of these assessments into their personnel development programs, as appropriate and consistent with applicable law.

(d) Agencies shall ensure that existing awards and decorations for the uniformed services and civilian personnel recognize performance and achievements in the areas of cybersecurity and cyber-operations, including by ensuring the availability of awards and decorations equivalent to citations issued pursuant to Executive Order 10694 of January 10, 1957 (Authorizing the Secretaries of the Army, Navy, and Air Force To Issue Citations in the Name of the President of the United States to Military and Naval Units for Outstanding Performance in Action), as amended. Where necessary and appropriate, agencies shall establish new awards and decorations to recognize performance and achievements in the areas of cybersecurity and cyber-operations. The Assistant to the President for National Security Affairs may recommend to agencies that any cyber unified coordination group or similar ad hoc interagency group that has addressed a significant cybersecurity

or cyber-operations-related national security crisis, incident, or effort be recognized for appropriate awards and decorations.

(e) The Secretary of Homeland Security, in consultation with the Secretary of Defense, the Director of the Office of Science and Technology Policy, the Director of OMB, and the heads of other appropriate agencies, shall develop a plan for an annual cybersecurity competition (President's Cup Cybersecurity Competition) for Federal civilian and military employees. The goal of the competition shall be to identify, challenge, and reward the United States Government's best cybersecurity practitioners and teams across offensive and defensive cybersecurity disciplines. The plan shall be submitted to the President within 90 days of the date of this order. The first competition shall be held no later than December 31, 2019, and annually thereafter. The plan for the competition shall address the following:

(i) The challenges and benefits of inviting advisers, participants, or observers from non-Federal entities to observe or take part in the competition and recommendations for including them in future competitions, as appropriate;

(ii) How the Department of Energy, through the National Laboratories, in consultation with the Administrator of the United States Digital Service, can provide expert technical advice and assistance to support the competition, as appropriate;

(iii) The parameters for the competition, including the development of multiple individual and team events that test cybersecurity skills related to the NICE Framework and other relevant skills, as appropriate. These parameters should include competition categories involving individual and team events, software reverse engineering and exploitation, network operations, forensics, big data analysis, cyber analysis, cyber defense, cyber exploitation, secure programming, obfuscated coding, cyber-physical systems, and other disciplines;

(iv) How to encourage agencies to select their best cybersecurity practitioners as individual and team participants. Such practitioners should include Federal employees and uniformed services personnel from Federal civilian agencies, as well as Department of Defense active duty military personnel, civilians, and those serving in a drilling reserve capacity in the Armed Forces Reserves or National Guard;

(v) The extent to which agencies, as well as uniformed services, may develop a President's Cup awards program that is consistent with applicable law and regulations governing awards and that allows for the provision of cash awards of not less than $25,000. Any such program shall require the agency to establish an awards program before allowing its employees to participate in the President's Cup Cybersecurity Competition. In addition, any such program may not preclude agencies from recognizing winning and non-winning participants through other means, including honorary awards, informal recognition awards, rating-based cash awards, time-off awards, Quality Step Increases, or other agency-based compensation flexibilities as appropriate and consistent with applicable law; and

(vi) How the uniformed services, as appropriate and consistent with applicable law, may designate service members who win these competitions as having skills at a time when there is a critical shortage of such skills within the uniformed services. The plan should also address how the uniformed services may provide winning service members with a combination of bonuses, advancements, and meritorious recognition to be determined by the Secretaries of the agencies concerned.

(f) The Director of OMB shall, in consultation with appropriate agencies, develop annually a list of agencies and subdivisions related to cybersecurity that have a primary function of intelligence, counterintelligence, investigative, or national security work, including descriptions of such functions. The Director of OMB shall provide this list to the President, through the

Deputy Assistant to the President for Homeland Security and Counterterrorism (DAPHSCT), every year starting September 1, 2019, for consideration of whether those agencies or subdivisions should be exempted from coverage under the Federal Labor-Management Relations Program, consistent with the requirements of section 7103(b)(1) of title 5, United States Code.

Sec. 3. *Strengthening the Nation's Cybersecurity Workforce.* (a) The Secretary of Commerce and the Secretary of Homeland Security (Secretaries), in coordination with the Secretary of Education and the heads of other agencies as the Secretaries determine is appropriate, shall execute, consistent with applicable law and to the greatest extent practicable, the recommendations from the report to the President on Supporting the Growth and Sustainment of the Nation's Cybersecurity Workforce (Workforce Report) developed pursuant to Executive Order 13800. The Secretaries shall develop a consultative process that includes Federal, State, territorial, local, and tribal governments, academia, private-sector stakeholders, and other relevant partners to assess and make recommendations to address national cybersecurity workforce needs and to ensure greater mobility in the American cybersecurity workforce. To fulfill the Workforce Report's vision of preparing, growing, and sustaining a national cybersecurity workforce that safeguards and promotes America's national security and economic prosperity, priority consideration will be given to the following imperatives:

(i) To launch a national Call to Action to draw attention to and mobilize public- and private-sector resources to address cybersecurity workforce needs;

(ii) To transform, elevate, and sustain the cybersecurity learning environment to grow a dynamic and diverse cybersecurity workforce;

(iii) To align education and training with employers' cybersecurity workforce needs, improve coordination, and prepare individuals for lifelong careers; and

(iv) To establish and use measures that demonstrate the effectiveness and impact of cybersecurity workforce investments.

(b) To strengthen the ability of the Nation to identify and mitigate cybersecurity vulnerabilities in critical infrastructure and defense systems, particularly cyber-physical systems for which safety and reliability depend on secure control systems, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Secretary of Homeland Security, in coordination with the Director of OPM and the Secretary of Labor, shall provide a report to the President, through the DAPHSCT, within 180 days of the date of this order that:

(i) Identifies and evaluates skills gaps in Federal and non-Federal cybersecurity personnel and training gaps for specific critical infrastructure sectors, defense critical infrastructure, and the Department of Defense's platform information technologies; and

(ii) Recommends curricula for closing the identified skills gaps for Federal personnel and steps the United States Government can take to close such gaps for non-Federal personnel by, for example, supporting the development of similar curricula by education or training providers.

(c) Within 1 year of the date of this order, the Secretary of Education, in consultation with the DAPHSCT and the National Science Foundation, shall develop and implement, consistent with applicable law, an annual Presidential Cybersecurity Education Award to be presented to one elementary and one secondary school educator per year who best instill skills, knowledge, and passion with respect to cybersecurity and cybersecurity-related subjects. In developing and implementing this award, the Secretary of Education shall emphasize demonstrated superior educator accomplishment—without respect to research, scholarship, or technology development—as well as academic achievement by the educator's students.

(d) The Secretary of Commerce, the Secretary of Labor, the Secretary of Education, the Secretary of Homeland Security, and the heads of other

appropriate agencies shall encourage the voluntary integration of the NICE Framework into existing education, training, and workforce development efforts undertaken by State, territorial, local, tribal, academic, non-profit, and private-sector entities, consistent with applicable law. The Secretary of Commerce shall provide annual updates to the President regarding effective uses of the NICE Framework by non-Federal entities and make recommendations for improving the application of the NICE Framework in cybersecurity education, training, and workforce development.

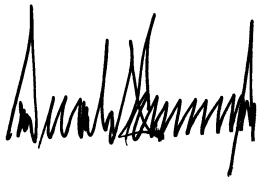
Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
May 2, 2019.

[FR Doc. 2019–09750
Filed 5–8–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9876 of May 3, 2019

National Hurricane Preparedness Week, 2019

By the President of the United States of America

A Proclamation

During National Hurricane Preparedness Week, I encourage all Americans living in hurricane-prone areas to take the measures necessary to safeguard their families, homes, and businesses. As a Nation, we are sadly too familiar with the destructive force of hurricanes. To help prevent and mitigate hurricane-related harm, it is critically important that we prepare for the upcoming hurricane season, which starts next month.

This September marks the 30th anniversary of Hurricane Hugo, one of the strongest and most costly hurricanes to hit the United States from the Atlantic Ocean. That destructive storm devastated the Caribbean Islands of Guadeloupe, St. Croix, and Puerto Rico before making final landfall in South Carolina. The storm surge it generated also caused tremendous damage.

Hugo's destructive storm surge serves as a reminder of how dangerous that aspect of a storm can be. Over the last three decades, more people have died from storm surges and inland flooding than from hurricane winds. More than 50 people died last year after Hurricane Florence shattered all-time rain and flood records in the Carolinas. To address this deadly hazard, the National Weather Service (NWS) recently implemented alerts for impending storm surges on the gulf and east coasts, where low-lying areas and coastal communities are especially vulnerable.

Our ability to track hurricanes for more timely and reliable forecasts has vastly improved. Last year, Hurricane Michael, a Category 5 hurricane and the strongest storm ever to hit the Florida Panhandle, destroyed neighborhoods, wrecked property, and altered countless lives. In the lead-up to Hurricane Michael, the NWS provided expert forecasting. In addition, the NWS has activated services to warn citizens of dangerous wind conditions when the eyewall of a hurricane is moving onshore. The Extreme Wind Warning signals when exceptionally strong winds are imminent, alerting families to take immediate life-saving actions, such as moving away from windows and finding shelter in far-interior locations.

My Administration is continuing its efforts to enhance storm tracking and intensity predictions to help save lives and livelihoods by giving communities adequate time to prepare. We are committed to ensuring that the United States will produce the best weather forecasting model in the world. In 2017, I signed into law the first major standalone weather-related bill in decades, the bipartisan Weather Research and Forecasting Innovation Act. For the past year, we have built on the success of this legislation, especially through the Earth Prediction Innovation Center, strongly supported by the Congress and communities nationwide. This Center will advance our knowledge of severe weather, such as hurricanes, and increase our prediction and forecasting abilities with new modeling capabilities and forecast products that can protect life and property.

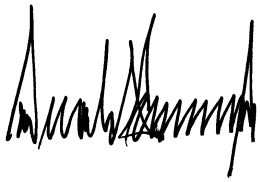
Additionally, my Administration continues to prioritize and invest in the mitigation actions that are crucial for saving money, property, and, most importantly, lives when severe storms hit. We are working with communities across our country to implement plans to reduce the damage caused by hurricanes and to make them more resilient when they rebuild after disasters

strike. It is crucial that we enhance our ability as a Nation to anticipate and adapt to natural and manmade disasters, disruptions, and emergencies. We must reduce the effects of disaster events and the rising cost of recovery.

This week is an opportunity for everyone in areas that are susceptible to hurricane-related harm to prepare for these deadly storms. The *Ready Campaign* led by the Federal Emergency Management Agency (FEMA) is available online and can help you develop preparedness plans for your family and business, gather supplies for your emergency kit, and plan for communicating with loved ones when power is out and cell towers are down. By taking collective responsibility to prepare for hurricanes, we help make our communities and our Nation safer and more resilient.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 5 through May 11, 2019, as National Hurricane Preparedness Week. I call upon everyone to take action this week by making use of the online resources provided by the National Weather Service and FEMA to safeguard your families, homes, and businesses from the dangers of hurricanes and severe storms. I also call upon Federal, State, local, tribal, and territorial emergency management officials to help inform our communities about hurricane preparedness and response in order to prevent storm damage and save lives.

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



[FR Doc. 2019–09755
Filed 5–8–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9877 of May 3, 2019

National Small Business Week, 2019

By the President of the United States of America

A Proclamation

During National Small Business Week, we honor America's entrepreneurs who take a risk on an idea, invest in their neighborhoods, and create jobs for others. Small business owners exemplify the American spirit by developing new ways to provide goods and services to consumers. As a Nation, we reaffirm our commitment to the free market so that American small businesses continue to thrive.

America's 30 million small businesses are central to our economy and our communities. Their courageous innovation makes our cities and towns vibrant places to live, work, and raise families. Small businesses employ almost 59 million workers, more than one-third of our country's labor force. These companies foster environments that reward problem solving and accountability, enabling workers to develop skills and valuable hands-on experience that propel their careers.

The success of our small businesses depends on leadership and vision from all perspectives and backgrounds. Approximately 10 million American small businesses are women-owned; 29 percent are minority-owned; and nearly 10 percent are veteran-owned. As our Nation continues to enjoy record low unemployment, with African-American, Hispanic-American, and Asian-American unemployment all having achieved historic lows, we recognize that much of this success is due to small businesses creating two out of every three net new jobs in our booming economy.

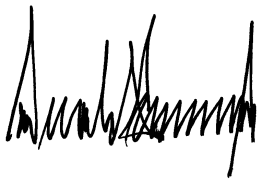
My Administration is a strong ally and advocate of small businesses and their ability to help America reach its full economic potential. Most small businesses are now able to deduct 20 percent from their taxable business income due to the Tax Cuts and Jobs Act. This historic legislation and other pro-growth policies of my Administration, including the elimination of unnecessary and burdensome regulations, have enabled small business owners to reinvest their profits into their businesses. Additionally, we are investing in infrastructure and cybersecurity to ensure America's entrepreneurs have the tools and technologies they need to compete in a global economy. New initiatives are making it easier for small businesses to offer healthcare coverage options that until now have been largely unaffordable. Moreover, once approved by the Congress, the United States-Mexico-Canada Agreement (USMCA) will better serve the interests of American workers and businesses, including through strong intellectual property protections that secure innovation and trade secrets. The USMCA is the first trade agreement in our Nation's history to include a chapter specifically focusing on small and medium-sized enterprises. All of these efforts to create a more friendly business environment have enabled business owners to pay bonuses, increase wages, and increase benefits—putting more money in the pockets of their workers.

This week, we celebrate the pioneering spirit, creativity, and determination upon which America has always been built. This undaunted conviction drives our entrepreneurs and small business owners, whose hard work and perseverance give our Nation economic strength. Their initiative, combined

with the greatest workforce in the world, is enabling us to convert the unlimited potential of America into great wealth and prosperity.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 5 through May 11, 2019, as National Small Business Week. I call upon all Americans to recognize the critical contributions of America's entrepreneurs and small business owners as they grow our Nation's economy.

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



[FR Doc. 2019–09759
Filed 5–8–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9878 of May 3, 2019

Public Service Recognition Week, 2019

By the President of the United States of America

A Proclamation

During Public Service Recognition Week, we express our gratitude to our Nation's civil servants for their dedication to mission, service, and stewardship. These members of our Federal, State, and local government workforces deliver results for the American people, often without acclaim.

Each day, millions of government employees serve their fellow citizens, and we as a Nation recognize the valuable role they play in our communities. From the law enforcement officers and border patrol agents who keep our country safe and secure to those who work in education, healthcare, transportation, and other public service careers, civil servants ensure government works for the American people. Our country's brave men and women in uniform make up the greatest Armed Forces in the world. They are able to defend our freedom because civilian employees at the Department of Defense and the Department of Veterans Affairs work faithfully each day to fulfill President Abraham Lincoln's charge to ''care for him who shall have borne the battle.'' In often difficult circumstances, our civil servants respond to natural disasters, search for cures for diseases, protect information networks, and improve quality of life for their fellow Americans. They remain focused on their mission of serving and protecting.

My Administration understands that it is critical for Federal employees to provide high-quality service and to be good stewards of taxpayer dollars. To maintain these high standards, we are continuing to implement policies that create a more efficient and productive Federal Government. By removing unnecessary regulations and streamlining internal agency processes, we have helped eliminate barriers that stand in the way of Federal employees' efforts to do their jobs. We have also made it easier for the Federal Government to hire more military spouses, and we are giving a second chance to those with a criminal history.

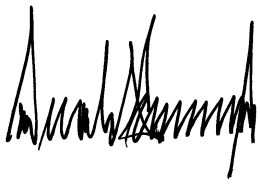
This week, we pause to give tribute to the many civil servants who paid the ultimate price in service to our Nation. We will never forget their sacrifice, and we are proud to add their names to the Wall of Honor in the Theodore Roosevelt Federal Office Building, a tradition which began in 2013 to honor Federal civilian employees who died in the line of duty. My Administration also is pleased to launch the Gears of Government President's Award. This award program reinforces the President's Management Agenda by recognizing individuals and teams across the Federal workforce who support exceptional delivery of key mission, service, and stewardship outcomes for the American people.

During Public Service Recognition Week, we acknowledge the work our civil servants do for the American people on a daily basis, and we appreciate their willingness to dedicate their experience and expertise, and sometimes even their lives, to serving their fellow citizens.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 5 through May 11, 2019, as Public Service Recognition Week. I call upon Americans and all Federal, State, tribal, and local government agencies to recognize

the dedication of our Nation's public servants and to observe this week through appropriate programs and activities.

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



[FR Doc. 2019–09760
Filed 5–8–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9879 of May 3, 2019

Missing and Murdered American Indians and Alaska Natives Awareness Day, 2019

By the President of the United States of America

A Proclamation

On Missing and Murdered American Indians and Alaska Natives Awareness Day, we draw attention to the horrible acts of violence committed against American Indian and Alaska Native people, particularly women and children. Too many American Indians and Alaska Natives are the victims of abuse, sexual exploitation, or murder—or are missing from their communities. Some of those missing may be victims of human trafficking. We must work together as a Nation to correct these injustices and ensure the safety of all Americans, particularly our most vulnerable populations.

American Indian and Alaska Native people face alarming levels of violence. Data from the National Institute of Justice and the Centers for Disease Control and Prevention indicate that more than 1.5 million American Indian and Alaska Native women have experienced violence, including sexual violence, in their lifetimes. American Indian and Alaska Native children attempt and commit suicide at rates far higher than those in any other demographic in our Nation, and often endure disproportionately high rates of endemic drug abuse, violence, and crime.

Ending the violence that disproportionately affects American Indian and Alaska Native communities is imperative. Under my Administration, Federal agencies are working more comprehensively and more collaboratively to address violent crime in Indian country, to recover the American Indian and Alaska Native women and children who have gone missing, and to find justice for those who have been murdered. As a result of these ongoing efforts, we are improving public safety, we are expanding funding and training opportunities for law enforcement in Indian country, and we are better equipping them with tools like access to criminal databases. We have also established improved protocols based on our government-to-government relationships with the tribes, and have become more transparent and accountable in our efforts.

Currently, every United States Attorney's Office with Indian country jurisdiction has developed sexual assault response and multidisciplinary teams to combat sexual assault and abuse of American Indian and Alaska Native women and children. In addition, the Attorney General has developed a working group dedicated to addressing violent crime in Indian country. This working group has made the development of law enforcement strategies for Missing and Murdered Indigenous People (MMIP) a priority, improving human trafficking training and creating law enforcement initiatives for United States Attorneys.

To help address the significant challenges in collecting data regarding missing and murdered American Indian and Alaska Native people, the Department of the Interior's Bureau of Indian Affairs (BIA) and the Department of Justice (DOJ) partnered together to capture tribal data through new data fields in the National Missing and Unidentified Persons System. DOJ has also expanded the Tribal Access Program (TAP) and Amber Alert in Indian country to make law enforcement more aware of missing persons and to enhance their ability to be responsive to missing persons reports and Sexual

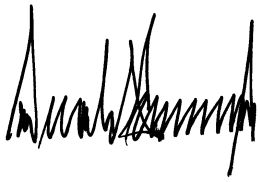
Offender Registration and Notification Act (SORNA) registrants in the area. TAP also enables tribal law enforcement to have access to national law enforcement databases and to immediately and directly enter missing persons reports into them. In addition, BIA's Tribal Justice Support Directorate funds the training of tribal attorneys in prosecuting domestic violence and partner abuse crimes as part of implementing the Violence Against Women Act.

In Fiscal Years 2018 and 2019, DOJ allocated historic amounts of funding to combat violent crime in Indian country, including to the MMIP efforts of the Office on Violence Against Women (OVW). DOJ set aside close to $300 million from the Crime Victim Fund over two years to assist victims of crime in Indian country. It also expanded the Tribal Special Assistant United States Attorney program, which is aimed at reducing violent crime, including violence against women, in Indian country and building important partnerships between Federal and tribal agencies. In addition, DOJ funds the National Indian Country Training Initiative (NICTI), which continues to provide training at the National Advocacy Center and in the field for Federal, State, and tribal criminal justice and social service professionals.

My Administration will continue working to root out injustice and protect each and every person in America. On Missing and Murdered American Indians and Alaska Natives Awareness Day, we pause to raise awareness of unacceptable acts of violence that profoundly harm American Indian and Alaska Native communities. As a Nation, we honor the lives of all missing and murdered American Indians and Alaska Natives, and we reaffirm our commitment to ensuring that violence against these vulnerable Americans shall not be overlooked or tolerated.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 5, 2019, as Missing and Murdered American Indians and Alaska Natives Awareness Day. I call upon Americans and all Federal, State, tribal, and local governments to increase awareness of the crisis of missing and murdered American Indians and Alaska Natives through appropriate programs and activities.

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



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Reader Aids

Federal Register

Vol. 84, No. 90

Thursday, May 9, 2019

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