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Contents

Federal Register

Vol. 82, No. 114

Thursday, June 15, 2017

Agriculture Department
See Food Safety and Inspection Service
See Forest Service

Coast Guard
RULES
Drawbridge Operations:
Sacramento River, Rio Vista, CA, 27423–27424

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Copyright Office, Library of Congress
RULES
Supplementary Registration, 27424–27428

Employment and Training Administration
NOTICES
Funding Availability:
Program Year (PY) 2017 Workforce Innovation and Opportunity Act (WIOA) Allotments; PY 2017 Wagner-Peyser Act Final Allotments and PY 2017 Workforce Information Grants, 27526–27535

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Tennessee; Prong 4-2010 NO_2, SO_2, and 2012 $PM_{2.5}$ NAAQS, 27428–27430
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
California Air Plan Revisions, South Coast Air Quality Management District, 27451–27456
California; Placer County Air Pollution Control District, 27456–27460

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Airplanes, 27408–27411
BAE Systems (Operations) Limited Airplanes, 27414–27416
Bombardier, Inc., Airplanes, 27406–27408
Empresa Brasileira de Aeronautica S.A. (Embraer) Airplanes, 27419–27422
Pratt and Whitney Division Turbofan Engines, 27411–27414
The Boeing Company Airplanes, 27416–27419
Special Conditions:
Peregrine, Textron Model 650 and Beechcraft Model BAe.125 Series 800A Airplanes; Rechargeable Lithium Batteries and Battery Systems, 27404–27406
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 27444–27448
Class E Airspace; Amendments:
Hattiesburg, MS, 27448–27449
Windsor Locks, CT, 27449–27451
NOTICES
Meetings:
NextGen Advisory Committee, 27543

Federal Communications Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27480–27482
Committee Establishments:
Federal Advisory Committee, Diversity and Digital Empowerment, 27480–27481

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 27482–27483
Receivership Terminations:
10394; Patriot Bank of Georgia; Cumming, GA, 27483
Summit Bank, Burlington, WA, 27482

Federal Emergency Management Agency
PROPOSED RULES
Evaluation of Existing Regulations, Policies, and Information Collections, 27460–27461

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 27476–27479
Environmental Assessments; Availability, etc.:
Valley Crossing Pipeline, LLC; Border Crossing Project, 27477
Environmental Impact Statements; Availability, etc.:
Jordan Cove Energy Project, L.P.; Pacific Connector Gas Pipeline, L.P.; Jordan Cove LNG Terminal and Pacific Connector Pipeline Projects, 27473–27476

Federal Highway Administration
NOTICES
Meetings:
Emergency Route Working Group, 27544

Federal Reserve System
RULES
Availability of Funds and Collection of Checks, 27552–27601
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 27483
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 27483

Federal Trade Commission
NOTICES
Privacy Act; Systems of Records, 27483–27485

Fish and Wildlife Service
NOTICES
Endangered and Threatened Species Permit Applications, 27518–27519

Endangered and Threatened Species:
Permit Applications, 27520
Meetings:
Service Regulations Committee; Migratory Bird Hunting, 27521

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Animal Generic Drug User Fee Act Cover Sheet, 27512–27513
Data To Support Social and Behavioral Research as Used by the Food and Drug Administration, 27492–27493
Establishing and Maintaining Lists of U.S. Milk Product Manufacturers/Processors With Interest in Exporting, 27485–27487
Food Labeling Regulations, 27504–27508
Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 27508–27509
Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug, and Cosmetic Act, 27493–27496
Infant Formula Recall Regulations, 27509–27512
Recordkeeping and Reporting Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing Material From Cattle, 27501–27504
State Petitions for Exemption From Preemption, 27491–27492
Temporary Marketing Permit Applications, 27489–27491
Determinations of Regulatory Review Periods for Purpose of Patent Extensions:
NATPARA, 27496–27497
Modified Risk Tobacco Product Applications:
IQOS System With Marlboro Heatsticks, IQOS System With Marlboro Smooth Menthol Heatsticks, and IQOS System With Marlboro Fresh Menthol Heatsticks, 27487–27489
Requests for Nominations:
Individuals and Consumer Organizations for Advisory Committees, 27497–27501
Voting Members; Technical Electronic Product Radiation Safety Standards Committee, 27504

Food Safety and Inspection Service
RULES
Meetings:
Mandatory Inspection of Fish of the Order Siluriformes and Products Derived From Such Fish Final Rule Implementation, 27403–27404

Foreign Claims Settlement Commission
NOTICES
Meetings; Sunshine Act, 27526

Foreign-Trade Zones Board
NOTICES
Production Activities:
Amcor Flexibles L.L.C., Foreign-Trade Zone 29, Louisville, KY, 27464
Apple Inc., Foreign-Trade Zone 221, Mesa, AZ, 27463
Foreign-Trade Zone 277, Western Maricopa County, AZ; IRIS USA, Inc. (Plastic Household Storage/Organizational Containers), Surprise, AZ, 27463
Foreign-Trade Zone 80, San Antonio, TX: CGT U.S., Ltd.; Subzone 80E (Polyvinyl Chloride (PVC) Coated Upholstery Fabric Cover Stock), New Braunfels, TX, 27464–27465
MannKind Corp; Foreign-Trade Zone 76; Danbury, CT, 27465
STIHL Inc., Foreign-Trade Zone 20, Norfolk, VA, 27464
Superior Weighting Products LLC; Foreign-Trade Zone 122; Corpus Christi, TX, 27463
Voestalpine Texas, LLC, Foreign-Trade Zone 122, Corpus Christi, TX, 27464
Subzone Expansions; Approvals:
Mead Johnson & Co, LLC; Zeeland, MI, 27463
Subzone Status; Approvals:
Caribe Rx Services, Inc.; Caguas, PR, 27463–27464
Destileria Serralles, Inc.; Ponce, PR, 27464
R. Ortiz Auto Distributors, Inc., Caguas, PR, 27462–27463

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Uinta Express Pipeline Project, Uinta-Wasatch-Cache National Forest; UT, 27462
Meetings:
Ozark-Ouachita Resource Advisory Committee, 27462

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application and Other Forms Utilized by the National Health Service Corps Scholarship Program, the Students to Service Loan Repayment Program, and the Native Hawaiian Health Scholarship Program, 27513–27515

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Indian Affairs Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Tribal Energy Development Capacity Program Grants, 27521–27522

Institute of Museum and Library Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The Roles of Libraries and Museums as Enablers of Community Vitality and Co-Creators of Positive Community Change Program Evaluation, 27535–27536

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Reclamation Bureau

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Chlorinated Isocyanurates from the People's Republic of China, 27466–27468
Steel Concrete Reinforcing Bar From the Republic of Turkey; Partial Rescission of Administrative Review, 2015, 27465–27466
Utility Scale Wind Towers From the People's Republic of China; Rescission of Administrative Review; 2016, 27465
Duty-Free Entry of Scientific Instruments; Applications:
Purdue University, et al., 27468
University of Massachusetts Medical School, et al., 27468

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Silicon Metal from China, 27525–27526
Investigations; Determinations, Modifications, and Rulings, etc.:
100- to 150-Seat Large Civil Aircraft From Canada, 27524
Certain Digital Video Receivers and Hardware and Software Components Thereof, 27524–27525

Justice Department
See Foreign Claims Settlement Commission
NOTICES
Proposed Consent Decrees:
CERCLA, 27526

Labor Department
See Employment and Training Administration

Land Management Bureau
RULES
Waste Prevention, Production Subject to Royalties, and Resource Conservation; Postponement of Certain Compliance Dates, 27430–27431

Library of Congress
See Copyright Office, Library of Congress

National Archives and Records Administration
See Office of Government Information Services

National Endowment for the Arts
RULES
Implementing the Federal Civil Penalties Adjustment Act Improvements Act, 27431–27434

National Foundation on the Arts and the Humanities
See Institute of Museum and Library Services
See National Endowment for the Arts

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application To Participate in the National Institutes of Health Technical Assistance Programs: Commercialization Accelerator Program, 27516
Meetings:
Center for Scientific Review, 27515–27517
National Cancer Institute, 27517
National Cancer Institute; Amendment, 27515
National Institute on Aging, 27515–27516

National Oceanic and Atmospheric Administration
RULES
Takes and Imports of Marine Mammals Incidental to Specified Activities:
Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, 27434–27443
NOTICES
Endangered and Threatened Species:
Takes of Anadromous Fish, 27468–27471
Meetings:
Pacific Fishery Management Council, 27471
Takes of Marine Mammals Incidental to Specified Activities:
Taking Marine Mammals Incidental to Space Vehicle and Missile Launch Operations, 27472

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater Than Class C Waste, 27536–27537

Office of Government Information Services
NOTICES
Meetings:
Chief FOIA Officers' Council, 27535

Pension Benefit Guaranty Corporation
RULES
Benefits Payable in Terminated Single-Employer Plans:
Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits, 27422–27423

Pipeline and Hazardous Materials Safety Administration
NOTICES
Meetings:
Voluntary Information-Sharing System Working Group, 27544–27545

Postal Service
NOTICES
Product Changes:
Priority Mail and First-Class Package Service Negotiated Service Agreement, 27537–27538
Priority Mail Express and Priority Mail Negotiated Service Agreement, 27538
Priority Mail Negotiated Service Agreement, 27538

Presidential Documents
ADMINISTRATIVE ORDERS
Belarus; Continuation of National Emergency (Notice of June 13, 2017), 27603–27605
Defense and National Security:
Defense Production Act of 1950; Determination (Presidential Determination No. 2017–08 of June 13, 2017), 27607
Defense Production Act of 1950; Determination (Presidential Determination No. 2017–09 of June 13, 2017), 27609

Reclamation Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Shasta Dam Fish Passage Evaluation, CA, 27522–27524

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27538–27539
Self-Regulatory Organizations; Proposed Rule Changes:
ICE Clear Credit LLC, 27539–27541

State Department
NOTICES
Presidential Permits:
State of Texas, 27541–27543

Substance Abuse and Mental Health Services Administration

NOTICES
Meetings:
Center for Substance Abuse Prevention National Advisory Council, 27517–27518

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27546–27547

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Claim for Standard Government Headstone or Marker and Claim for Government Medallion for Placement in a Private Cemetery, 27549–27550
Meetings:
National Academic Affiliations Council, 27547–27548
Privacy Act; Computer Matching Program, 27548–27549

Separate Parts In This Issue

Part II
Federal Reserve System, 27552–27601

Part III
Presidential Documents, 27603–27605, 27607, 27609

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Notices:

Notice of June 13, 2017 27605

Presidential Determinations:

No. 2017–08 of June 13, 2017 27607

No. 2017–09 of June 13, 2017 27609

9 CFR

530 27403
531 27403
532 27403
533 27403
534 27403
537 27403
539 27403
540 27403
541 27403
544 27403
548 27403
550 27403
552 27403
555 27403
557 27403
559 27403
560 27403
561 27403

12 CFR

229 27551

14 CFR

25 27404
39 (6 documents) 27406, 27408, 27411, 27414, 27416, 27419

Proposed Rules:

39 27444
71 (2 documents) 27448, 27449

29 CFR

4022 27422
4044 27422

33 CFR

117 27423

37 CFR

201 27424
202 27424

40 CFR

52 27428

Proposed Rules:

52 (2 documents) 27451, 27456

43 CFR

3170 27430

44 CFR

Proposed Rules:

Ch. I 27460

45 CFR

1149 27431
1158 27431

50 CFR

217 27434

Rules and Regulations

Federal Register
Vol. 82, No. 114
Thursday, June 15, 2017

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.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 530, 531, 532, 533, 534, 537, 539, 540, 541, 544, 548, 550, 552, 555, 557, 559, 560, and 561

[Docket No. FSIS–2017–0023]

Educational Meetings on the Mandatory Inspection of Fish of the Order Siluriformes and Products Derived From Such Fish Final Rule Implementation

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notification of educational meetings.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing two educational meetings to discuss the enforcement and implementation of the Final Rule, ''Mandatory Inspection of Fish of the Order Siluriformes and Products Derived from Such Fish.'' Fish of the order Siluriformes include fish of several families, including catfish (fish of the family Ictaluridae), basa, tra, and swai (fish of the family Pangasiidae), and clarias (fish of the Clariidae family). FSIS will present information on the upcoming full implementation of the regulatory requirements at official domestic establishments that process Siluriformes fish and fish products, as well as information on entry procedures and reinspection at official import inspection establishments. FSIS is particularly interested in soliciting participation from representatives from domestic wild-caught operations that process Siluriformes fish and fish products.

The primary objectives of the meetings are to provide updated information to stakeholders and to encourage dialogue between FSIS and the Siluriformes fish industry. Affected industry and interested individuals, organizations, and other stakeholders are invited to participate in the meetings.

DATES: The meetings are scheduled as follows:

- The first meeting will be held in Richmond, VA, on Tuesday, June 27, 2017; 9 a.m.–3 p.m. ET, at the Hilton Richmond Downtown, 501 East Broad Street, Richmond, VA 23129. For directions and parking instructions, please visit: *www.richmonddowntown.hilton.com*.
- The second meeting will be held in Baltimore, MD, on Thursday, July 20, 2017; 9 a.m.–3 p.m. ET, at the Sheraton Baltimore Washington International Hotel, 1100 Old Elkridge Landing Road, Linthicum Heights, MD 21090. For directions and parking instructions, please visit: *www.sheratonbwi airport.com*.

FOR FURTHER INFORMATION CONTACT: Evelyn Arce, Outreach and Partnership Division, Office of Outreach, Employee Education and Training, FSIS, 1400 Independence Ave. SW., Mail Stop 3778, Washington, DC 20250; Telephone: (202) 418–8903; Fax: (202) 690–6519; Email: *Evelyn.Arce@fsis.usda.gov,* regarding additional information about this meeting or to arrange for special accommodations.

Questions regarding the mandatory inspection of fish of the order Siluriformes and products derived from such fish may be directed to *AskFish@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION: Further information on these meetings will be posted on FSIS Web site at: *https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings* and through the *FSIS Constituent Update*.

The final rule may be accessed from the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/interim-and-final-rules*.

Registration: To pre-register for the either of meetings, please go to *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings*.

The cutoff dates for pre-registration are as follows:

Richmond, VA: Friday, June 23, 2017
Baltimore, MD: Tuesday, July 18, 2017

Background

On December 2, 2015, FSIS published the final rule to establish a mandatory inspection program for fish of the order Siluriformes and products derived from these fish (80 FR 75590). The final rule and other resources and information on Siluriformes fish can be found on the FSIS ''Inspection Program For Siluriformes Fish, Including Catfish'' Web page: *https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/siluriformes*.

The final rule was effective March 1, 2016; however, the Agency provided an 18-month transitional period until September 1, 2017, to give domestic establishments time to prepare and comply with the final regulations. The transitional period also provided foreign countries with time to submit the documentation necessary to continue exporting Siluriformes fish and fish products to the United States and to show that they have equivalent inspection systems.

FSIS began inspecting domestic establishments on March 1, 2016, and began selecting imported Siluriformes fish shipments for reinspection on April 15, 2016. During the transitional period, FSIS inspection personnel have exercised broad discretion in enforcing the regulatory requirements, focusing primarily on preventing adulterated or misbranded Siluriformes fish and fish products from entering commerce.

FSIS held a series of domestic and import educational meetings when the final rule initially published in December 2015. FSIS has gained significant insight into the domestic and importing Siluriformes fish industries during the transitional period, and is announcing these educational meetings to provide updates regarding full implementation of the regulatory requirements.

In addition, the Agency is interested in exchanging information with operations that process wild-caught Siluriformes fish and fish products, and encourages representatives and parties involved in this industry to attend the educational meetings. The Agency is particularly interested in gaining insight into how the wild-caught Siluriformes fish arrive at processing facilities, from where the wild-caught Siluriformes fish are sourced, daily production volume information for these facilities, and where the final Siluriformes fish and fish products are being sold or distributed after processing. FSIS will post a list of questions that FSIS intends to use to gather information concerning

these issues at *https://www.fsis.usda.gov/meetings*.

Additional Public Notification

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

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

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Email: program.intake@usda.gov.

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Done at Washington, DC, on: June 12, 2017.

Alfred V. Almanza,

Administrator.

[FR Doc. 2017–12441 Filed 6–14–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0579; Special Conditions No. 25–688–SC]

Special Conditions: Peregrine, Textron Model 650 and Beechcraft Model BAe.125 Series 800A Airplanes; Rechargeable Lithium Batteries and Battery Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Model 650 and Beechcraft Model BAe.125 Series 800A (Model 800A) airplanes as modified by Peregrine. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is rechargeable lithium batteries and battery systems installed in the airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Peregrine on June 15, 2017. Send your comments by July 31, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0579 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, FAA, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected airplanes.

In addition, the substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. The FAA therefore finds it unnecessary to delay the effective date, and finds good cause for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any

recommended change, and include supporting data.

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

Background

On June 17, 2015, Peregrine applied for a supplemental type certificate to replace the original standby altimeter installed on the left side of the pilot's instrument panel in Textron Model 650 and Beechcraft Model 800A airplanes. These modifications include rechargeable lithium batteries and battery systems installed in the Textron and Beechcraft airplanes.

The Textron Model 650 and the Beechcraft Model 800A airplanes are small transport-category airplanes, each powered by two turbine engines.

The Textron Model 650 airplane has a maximum takeoff weight of 23,000 pounds, with seating for 2 crewmembers and 13 passengers.

The Beechcraft Model 800A airplane has a maximum takeoff weight of 31,000 pounds (modification no. 253379A), or 26,866 pounds (modification no. 25B047), with seating for 2 crewmembers and 15 passengers.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Peregrine must show that the Textron Model 650 and Beechcraft Model 800A airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate nos. A9NM and A3EU, respectively, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for these airplanes, as modified by Peregrine, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the models for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other models included on the same type certificates to incorporate the same novel or unusual design feature, these special conditions would also apply to the other models under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Textron Model 650 and Beechcraft Model 800A airplanes, as modified by Peregrine, must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Textron Model 650 and Beechcraft Model 800A airplanes, as modified by Peregrine, will incorporate the following novel or unusual design feature:

Installed rechargeable lithium batteries and battery systems.

A battery system consists of the battery, battery charger, and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a battery and battery system are referred to as a battery.

Discussion

Rechargeable lithium-ion batteries and battery systems are considered to be a novel or unusual design feature in transport-category airplanes, with respect to the requirements in § 25.1353. This type of battery has certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on transport-category airplanes. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery-cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Special Condition 1 requires that each individual cell within a battery be designed to maintain safe temperatures and pressures. Special Condition 2 addresses these same issues but for the entire battery. Special Condition 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrolled increases in temperature or pressure from one cell to adjacent cells.

Special Conditions 1 and 2 are intended to ensure that the cells and battery are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special Conditions 3, 9, and 10 are self-explanatory.

Special Condition 4 clarifies that the flammable-fluid fire-protection requirements of § 25.863 apply to rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Rechargeable lithium batteries contain electrolyte that is a flammable fluid.

Special Condition 5 requires each rechargeable lithium battery installation to not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition. Special Condition 6 requires each rechargeable lithium battery installation to have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells. The means of meeting special conditions 5 and 6 may be the same, but they are independent requirements addressing different hazards. Special Condition 5 addresses corrosive fluids and gases, whereas Special Condition 6 addresses heat.

Special Conditions 7 and 8 require rechargeable lithium batteries to have ''automatic'' means, for charge rate and disconnect, due to the fast acting nature of lithium battery chemical reactions. Manual intervention would not be timely or effective in mitigating the hazards associated with these batteries.

These conditions apply to all rechargeable lithium battery installations in lieu of § 25.1353(c)(1) through (c)(4) at Amendment 25–0 (Model 650) and Amendment 25–42 (Model 800A). Section 25.1353(c)(1) through (c)(4) will remain in effect for other battery installations on these airplanes.

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

Applicability

As discussed above, these special conditions are applicable to the Textron Model 650 and Beechcraft Model 800A airplanes as modified by Peregrine. Should Peregrine apply at a later date for a supplemental type certificate to modify any other model included on

Type Certificate nos. A9NM and A3EU, respectively, to incorporate the same novel or unusual design feature, these special conditions would apply to those models as well.

Conclusion

This action affects only a certain novel or unusual design feature on two model series of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplanes.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Textron Model 650 and Beechcraft Model 800A airplanes as modified by Peregrine.

Each rechargeable lithium battery installation must:

1. Be designed so that safe cell temperatures and pressures are maintained under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

3. Not emit explosive or toxic gases in normal operation, or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of 14 CFR 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more-severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells.

7. Be capable of automatically controlling the charge rate of each cell to prevent cell imbalance, back-charging, overcharging, overheating, and uncontrollable temperature and pressure.

8. Have a means to be automatically disconnected from its charging source in the event of an over-temperature condition, cell failure, or battery failure.

9. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

10. If its function is required for safe operation of the airplane, have a monitoring and warning feature that alerts the flightcrew when its charge state falls below acceptable levels.

Note 1: A battery system consists of the battery, battery charger, and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a battery and battery system are referred to as a battery.

Note 2: These special conditions apply to all rechargeable lithium-battery installations in lieu of § 25.1353(c)(1) through (c)(4) at Amendment 25–0 (Model 650) and Amendment 25–42 (Model 800A).

Issued in Renton, Washington, on June 9, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12381 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9387; Directorate Identifier 2016–NM–182–AD; Amendment 39–18926; AD 2017–12–11]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This AD was prompted by a report that the equipment racks were not designed to support the actual weight of all the equipment and the secondary direct current power centers under all loading conditions. This AD requires modifying the equipment racks. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 20, 2017.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9387.

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–2016–9387; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–100–1A10 airplanes. The NPRM published in the **Federal Register** on March 23, 2017 (82 FR 14837). The NPRM was prompted by a recent design review of the equipment racks which revealed that the left-hand side (LHS) and right-hand side (RHS) equipment racks were not designed to support the actual weight of all the equipment and the secondary direct current power centers under all loading conditions. The NPRM proposed to require modifying the equipment racks. We are

issuing this AD to prevent structural failure of the LHS or RHS equipment racks in the event of a high energy emergency landing or runway excursion, which could result in blockage of the emergency exit for the flightcrew.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–26, dated September 14, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–100–1A10 airplanes. The MCAI states:

> During a recent design review, a Bombardier equipment supplier discovered that the weight of the Secondary Direct Current (DC) Power Center was incorrectly reported to the structural partner(s) via their equipment interface drawing. Consequently, the left-hand side (LHS) and right-hand side (RHS) equipment racks were not designed to support the actual weight of all the equipment and the Secondary DC Power Centers under all loading conditions. In the event of a high energy emergency landing or runway excursion, the structural failure of the LHS or RHS equipment racks may result in the blockage of the emergency escape route for the pilot(s) and crew if this condition is not corrected.

Required actions include modifying the equipment racks. 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–2016–9387.

Comments

We gave the public the opportunity to participate in developing this AD. 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 AD 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 correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Service Bulletin 100–25–39, dated October 26, 2015; and Bombardier Service Bulletin 350–25–002, dated October 26, 2015. This service information describes procedures for modifying the equipment racks. These documents are distinct since they apply to airplanes having different serial numbers. 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 161 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modify equipment racks	Up to 10 work-hours × $85 per hour = $850	$1,755	Up to $2,605	Up to $419,405.

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–11 Bombardier, Inc.: Amendment 39–18926; Docket No. FAA–2016–9387; Directorate Identifier 2016–NM–182–AD.

(a) Effective Date

This AD is effective July 20, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, serial numbers (S/Ns) 20003 through 20532 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by a report that the left-hand side (LHS) and right-hand side (RHS) equipment racks were not designed to support the actual weight of all the equipment and the secondary direct current power centers under all loading conditions. We are issuing this AD to prevent structural failure of the LHS or RHS equipment racks in the event of a high energy emergency landing or runway excursion, which could result in blockage of the emergency exit for the flightcrew.

(f) Compliance

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

(g) Modification of the Equipment Racks

Within 90 months after the effective date of this AD, do the modification required by paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For airplanes having S/Ns 20003 through 20500 inclusive: Modify the equipment racks having part numbers (P/Ns) K1000070316–003 (LHS) and K1000070316–004 (RHS), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–25–39, dated October 26, 2015.

(2) For airplanes having S/Ns 20501 through 20532 inclusive: Modify the equipment rack having P/N K1000070316–004 (RHS only), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 350–25–002, dated October 26, 2015.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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 New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 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, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–26, dated September 14, 2016, 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–2016–9387.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

(j) 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 100–25–39, dated October 26, 2015.

(ii) Bombardier Service Bulletin 350–25–002, dated October 26, 2015.

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

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(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 Renton, Washington, on June 5, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12169 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9571; Directorate Identifier 2016–NM–139–AD; Amendment 39–18925; AD 2017–12–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This AD was prompted by a full scale fatigue test campaign on these airplanes in the context of the extended service goal. This AD requires inspections of the affected frame locations, and repair if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 20, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9571.

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–2016–9571; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–

5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

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 Airbus Model A321 series airplanes. The NPRM published in the **Federal Register** on February 21, 2017 (82 FR 11162). The NPRM was prompted by a full scale fatigue test campaign on these airplanes in the context of the extended service goal. The NPRM proposed to require inspections of the affected frame locations, and repair if necessary. We are issuing this AD to detect and correct cracking of the fastener holes at certain frame locations, 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, has issued EASA Airworthiness Directive 2016–0146, dated July 20, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A321 series airplanes. The MCAI states:

> Following the results of a new full scale fatigue test campaign on the A321 airframe in the context of the A321 extended service goal, it was identified that cracks could develop on the fastener holes of frame (FR) 35.1, FR 35.2, and FR 35.3 between stringers (STR) 29 and STR 32 and at the FR 35.2 to Slidebox junction (Triform fitting), both left hand (LH) and right hand (RH) sides.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the fuselage. Prompted by these findings, Airbus developed an inspection programme, published in Service Bulletin (SB) A320–53–1308, SB A320–53–1309, SB A320–53–1310, SB A320–53–1311, SB A320–53–1312 and SB A320–53–1313, each containing instructions for a different location. For the reasons described above, this [EASA] AD requires repetitive special detailed (rototest) inspections (SDI) of the affected frame locations and, depending on findings, accomplishment of a repair.
>
> This [EASA] AD is considered an interim action, pending the development of a permanent solution.

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–2016–9571.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. Attiya Jaura supported the NPRM.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus issued the following service information. This service information describes procedures for repetitive rototest inspections for cracking of the affected frame locations, and contacting Airbus for repair instructions. These service bulletins are distinct because they apply to different frame locations.

- Airbus Service Bulletin A320–53–1308, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1309, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1310, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1311, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1312, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1313, dated November 4, 2015.

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 176 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	54 work-hours × $85 per hour = $4,590 per inspection cycle.	$1,070 per inspection cycle.	$5,660 per inspection cycle.	$996,160 per inspection cycle.

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

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.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–10 Airbus: Amendment 39–18925; Docket No. FAA–2016–9571; Directorate Identifier 2016–NM–139–AD.

(a) Effective Date

This AD is effective July 20, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a full scale fatigue test campaign on Airbus Model A321 series airplanes in the context of the extended service goal. It was determined that cracks could develop on the fastener holes of certain frames on the left-hand (LH) and right-hand (RH) sides of the affected airplanes. We are issuing this AD to detect and correct cracking of the fastener holes at certain frame locations, 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) Repetitive Inspections of the Frames, Stringers, and Slidebox Junctions

At the applicable time specified in table 1 to the introductory text of paragraph (g) of this AD, do a rototest inspection for cracking at frame (FR) 35.1, FR 35.2, and FR 35.3 on the LH and RH sides, in accordance with the Accomplishment Instructions of the Airbus service information specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), (g)(5), and (g)(6) of this AD. Repeat the inspection thereafter at intervals not to exceed 5,300 flight cycles.

TABLE 1 TO THE INTRODUCTORY TEXT OF PARAGRAPH (g) OF THIS AD—INSPECTION THRESHOLD

Airplane accumulated total flight cycles at the effective date of this AD	Compliance time
For airplanes with 18,300 total flight cycles or less	Before exceeding 18,300 total flight cycles, or within 5,300 flight cycles after the effective date of this AD, whichever occurs later.
For airplanes with more than 18,300 total flight cycles	Before exceeding 23,600 total flight cycles, or within 2,100 flight cycles after the effective date of this AD, whichever occurs later.

(1) Airbus Service Bulletin A320–53–1308, dated November 4, 2015 (FR 35.1 LH side).

(2) Airbus Service Bulletin A320–53–1309, dated November 4, 2015 (FR 35.1 RH side).

(3) Airbus Service Bulletin A320–53–1310, dated November 4, 2015 (FR 35.2 LH side).

(4) Airbus Service Bulletin A320–53–1311, dated November 4, 2015 (FR 35.2 RH side).

(5) Airbus Service Bulletin A320–53–1312, dated November 4, 2015 (FR 35.3 LH side).

(6) Airbus Service Bulletin A320–53–1313, dated November 4, 2015 (FR 35.3 RH side).

(h) Corrective Action

If any crack is found during any inspection required by the introductory text to paragraph (g) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). Although the service information specified in paragraph (g) of this AD specifies to contact Airbus for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair as specified in this paragraph. Repair of an airplane as required by this paragraph does not constitute terminating action for the repetitive inspections required by the introductory text to paragraph (g) of this AD for that airplane, unless specified otherwise in the repair instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 Branch, 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*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus'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 paragraph (h) 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.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0146, dated July 20, 2016, 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–2016–9571.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–53–1308, dated November 4, 2015.

(ii) Airbus Service Bulletin A320–53–1309, dated November 4, 2015.

(iii) Airbus Service Bulletin A320–53–1310, dated November 4, 2015.

(iv) Airbus Service Bulletin A320–53–1311, dated November 4, 2015.

(v) Airbus Service Bulletin A320–53–1312, dated November 4, 2015.

(vi) Airbus Service Bulletin A320–53–1313, dated November 4, 2015.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 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.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(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 Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12170 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9405; Directorate Identifier 2016–NE–22–AD; Amendment 39–18918; AD 2017–12–03]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Pratt & Whitney Division (PW) PW2037, PW2037M, and PW2040 turbofan engines. This AD was prompted by an unrecoverable engine in-flight shutdown (IFSD) after an ice crystal icing event. This AD requires installing a software standard eligible for installation and precludes the use of electronic engine control (EEC) software standards earlier than SCN 5B/I. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective July 20, 2017.

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney Division, 400 Main St., East Hartford, CT 06118; phone: 800–565–0140; fax: 860–565–5442. You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9405.

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–2016–9405; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin Clark, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@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 PW PW2037, PW2037M, and PW2040 turbofan engines. The NPRM published in the **Federal Register** on January 5, 2017 (82 FR 1265). The NPRM was prompted by an unrecoverable engine IFSD after an ice crystal icing event. An attempt to rapidly restart the engine was made while the EEC had the Active Clearance Control (ACC) turned on, which caused contraction of the high-pressure turbine (HPT) case and reduced clearances in the HPT, with subsequent HPT damage and rotor seizure. A change to the EEC software can force the ACC to activate at a higher rotor speed to prevent active ACC during engine restart. The NPRM proposed to preclude the use of EEC software standards earlier than SCN 5B/I. We are issuing this AD to prevent failure of the HPT, rotor seizure, failure of one or more engines, loss of thrust control, and loss of the airplane.

Comments

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

Request To Change Compliance

The Boeing Company, PW, Delta Air Lines, Inc., FedEx, and Rudy Pueschel requested removing the engine serial number requirement for earlier compliance time and use the Asia Pacific regional requirement for earlier compliance time. The change would properly capture the risk of icing events in the Asia Pacific region. This change would also match the referenced alert service bulletin (ASB).

We disagree. There are difficulties in compliance and enforcement for regulations based on regions. Using engines serial numbers (S/Ns) that are currently known to operate in the area was our approach to best capture the higher risk engines while easing compliance. The unsafe condition is addressed by upgrading at least one engine per airplane on all known engines currently operating in the Asia Pacific region within the shorter compliance period. Finally, this AD requires all engines with EEC model numbers EEC104–40 and EEC104–60 to upgrade software earlier than software standard SCN 5B/I by 2024. We did not change this AD.

Request To Change Method To Identify Engines Affected by Earlier Compliance Time

Delta Air Lines, Inc. and FedEx requested removing the engine serial number requirement for earlier compliance time and use extended range twin-engine operations (ETOPs) or Aircraft Tail Number requirements for earlier compliance time. The change was requested to ease with compliance and help properly capture the safety risk of operating in the Asia Pacific region.

We disagree. Operators may have ETOPs flights that do not operate in the

Asia Pacific region and would then be mandated to the earlier compliance time unnecessarily. Typically the EEC remains with the engine instead of the aircraft so tracking engines would be more appropriate than aircraft. However, we will review any Alternative Methods of Compliance (AMOCs) submitted to cover the regional risk to any operator's specific fleet instead of tracking through engine S/Ns. We did not change this AD.

Request To Change Compliance Time

Delta Air Lines, Inc. and FedEx requested using EEC S/Ns instead of engine S/Ns to track the earlier compliance times because, as the software is removed and upgraded on the EEC that the EEC should be tracked to properly follow the software upgrades.

We partially agree. We agree that tracking EEC serial numbers would assist in tracking software because EECs are removed or replaced more often than engines. We disagree with this approach because our available Asia Pacific region information only includes engine S/Ns. We did not change this AD.

Request To Clarify Engine S/Ns

Rudy Pueschel and PW requested clarification that the affected engine S/Ns are those engines currently operating in the Asia Pacific region, to assist operators in knowing why specific engines require earlier compliance.

We agree. Knowing the engines with certain S/Ns are currently operating in the Asia Pacific region will help operators understand the risk and unsafe condition. We revised the Differences Between this Proposed AD and the Service Information section.

Request To Change Compliance Time

FedEx and PW requested changing the engine shop visit definition to when the EEC is accessible at a maintenance facility. The EEC is a line replaceable unit (LRU) which may be replaced outside of a major flange separation shop visit definition. This would also align with the ASB.

We disagree. Our decision to use the separation of pairs of major mating engine flanges for the definition of an ''engine shop visit'' is based on the average time between shop visits and allows a period of time to operate with an adequate level of safety without unduly burdening operators not flying in the Asia Pacific Region. This is to avoid grounding aircraft that may be at a facility capable of replacing the EEC, but, not having the required parts or equipment to do so at the time. We did not change this AD.

Request To Change Compliance Time

Delta Air Lines, Inc. requested removing the engine shop visit requirement because the EEC is an LRU and may not line up with a major flange separation engine shop visit definition.

We disagree. The risk requires complying at the next engine shop visit. Our decision to use the separation of pairs of major mating engine flanges for the definition of an ''engine shop visit'' is based on the average time between shop visits and allows a period of time to operate with an adequate level of safety without unduly burdening operators not flying in the Asia Pacific Region. This is to avoid grounding aircraft that may be at a facility capable of replacing the EEC, but, not having the required parts or equipment to do so at the time. We did not change this AD.

Request To Change Service Information

Delta Air Lines, Inc., FedEx, and PW requested changing the required action from removing software earlier than software standard SCN 5B/I to install or upgrade to software standard SCN 5B/I, because there are no instructions for removing software. PW ASB PW2000 A73–170, dated July 14, 2016 is only for upgrading the software.

We partially agree. We disagree with mandating installation of software standard SCN 5B/I because that would prohibit the installation of a newer software standard in the future. We agree that an alternative to removing EEC software is needed because there are no instructions for removing software. This AD requires upgrading software, or installing an EEC that is eligible for installation. We changed paragraph (g) of this AD from ''remove software'' to ''upgrade software''.

Request To Change Compliance Time

Delta Air Lines, Inc. and PW requested that we specify a date in the compliance paragraphs of this AD to provide clarity on the deadline for compliance.

We agree. We changed the compliance paragraphs of this AD to include specific dates.

Request To Change Applicability

Delta Air Lines, Inc. and PW requested that we specify EEC model numbers EEC104–40 and EEC104–60 in the Installation Prohibition section because the Installation Prohibition section applies only to EEC model numbers EEC104–40 and EEC104–60, not to all EECs.

We agree. We revised paragraph (h) of this AD.

Request To Change Costs of Compliance

PW requested that we change the number of affected engines to 303 because only 303 engines have EEC model numbers EEC104–40 or EEC104–60, installed.

We agree. We changed the Costs of Compliance section.

Request To Change Discussion

Delta Air Lines, Inc. requested that we change the Discussion section to clarify that for the event engine, the attempted engine relight with the ACC turned on caused contraction of the HPT case and reduced clearances in the HPT, with subsequent HPT damage and rotor seizure. Delta also requested that we clarify that the EEC controls ACC activation.

We agree. We revised the Discussion section.

Request To Change Difference Between This Proposed AD and the Service Information Paragraph

Delta Air Lines, Inc. requested clarification in the ''Differences Between this Proposed AD and the Service Information'' section that the AD appears to apply all engines and not just to PW2000 with EEC model numbers EEC104–40 and EEC104–60. To provide further clarification, Delta also requests stating to which engines the July 2024 date applies.

We agree. This AD is applicable to PW2000 engines with EEC model numbers EEC104–40 and EEC104–60. We added the affected EEC model numbers to the Differences Between this AD and the Service Information section.

Request To Change Compliance

Delta Air Lines, Inc. requested that we remove the ellipses from Figure 1 to paragraph (g) of this AD. Ellipses should not be in the list and may suggest missing information.

We agree. We removed the ellipses from Figure 1 to paragraph (g) of this AD.

Request Reopening the Additional Comment Period

Delta Air Lines, Inc. requested reopening the comment period because of expected significant changes to the language of this AD.

We disagree. In response to the public comments we received on the NPRM, we made minor changes to the compliance section of this AD for clarification. However, we did not make any significant changes to this AD. Also we determined that air safety and the public interest require adopting this AD without delay.

Conclusion

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

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

Related Service Information

We reviewed PW ASB PW2000 A73–170, dated July 14, 2016. The ASB describes procedures for modifying or replacing the EEC. 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.

Differences Between This AD and the Service Information

PW ASB PW2000 A73–170, dated July 14, 2016, specifies compliance for any PW2000 engine with EEC model numbers EEC104–40 and EEC104–60, flown, or expected to be flown, in the Asian Pacific latitudes and longitudes, while this AD lists specific engine S/Ns that are currently known to operate in the Asia Pacific region. Also, PW ASB PW2000 A73–170, dated July 14, 2016, provides until 2026 to comply, while this AD provides until July 2024 for all PW2000 engines with EEC104–40 and EEC104–60 to comply.

Costs of Compliance

We estimate that this AD affects 303 engines, installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
EEC software installation	1.8 work-hours × $85 per hour = $153.00	$0.00	$153.00	$46,359.00

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.

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):

2017–12–03 Pratt & Whitney Division: Amendment 39–18918; Docket No. FAA–2016–9405; Directorate Identifier 2016–NE–22–AD.

(a) Effective Date

This AD is effective July 20, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Pratt & Whitney Division (PW) PW2037, PW2037M, and PW2040 turbofan engines with electronic engine control (EEC), model number EEC104–40 or EEC104–60, installed, with an EEC software standard earlier than SCN 5B/I.

(d) Subject

Joint Aircraft System Component (JASC) of America Code 7321, Fuel Control Turbine Engines.

(e) Unsafe Condition

This AD was prompted by an unrecoverable engine in-flight shutdown (IFSD) after an ice crystal icing event. We are issuing this AD to prevent failure of the high-pressure turbine (HPT), rotor seizure, failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Action

(1) For an engine with a serial number (S/N) listed in Figure 1 to paragraph (g) of this AD, upgrade any EEC software standards earlier than SCN 5B/I at the next engine shop visit, or before December 1, 2018, whichever occurs first, or, replace the EEC with a part eligible for installation.

(2) For an engine with an S/N not listed in Figure 1 to paragraph (g) of this AD, upgrade any EEC software standards earlier than SCN 5B/I at the next engine shop visit, or before July 1, 2024, whichever occurs first, or replace the EEC with a part eligible for installation.

FIGURE 1 TO PARAGRAPH (g)—ENGINE S/NS

716402	727272	728741
727103	727280	728743
727134	727281	728748
727152	727282	728779
727158	727286	728785
727189	727287	728795
727202	727288	728806
727204	728709	728811
727231	728715	728812
727239	728716	728820
727240	728719	728824

FIGURE 1 TO PARAGRAPH (g)—ENGINE S/NS—Continued

727251	728720	728826
727252	728725	728827
727253	728726	728840
727257	728729	728864
727269	728730	728870

(h) Installation Prohibition

After the effective date of this AD, do not install any software standard earlier than SCN 5B/I into any EEC model number EEC104–40 or EEC104–60.

(i) Definition

For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(k) Related Information

(1) For more information about this AD, contact Kevin Clark, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

(2) PW Alert Service Bulletin PW2000 A73–170, dated July 14, 2016, which is not incorporated by reference in this AD, can be obtained from PW, using the contact information in paragraph (k)(3) of this AD.

(3) For service information identified in this AD, contact Pratt & Whitney Division, 400 Main St., East Hartford, CT 06118; phone: 800–565–0140; fax: 860–565–5442.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(l) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on June 2, 2017.

Robert J. Ganley,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017–12074 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4220; Directorate Identifier 2015–NM–076–AD; Amendment 39–18923; AD 2017–12–08]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–24–06 for all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes. AD 2011–24–06 required revising the maintenance program to incorporate life limits for certain items, adding new and more restrictive inspections to detect fatigue cracking in certain structures, and adding fuel system critical design configuration control limitations (CDCCLs) to prevent ignition sources in the fuel tanks. AD 2011–24–06 also required modifying the main fittings of the main landing gear (MLG) and revising the maintenance program to incorporate new life limits on MLG up-locks and door up-locks and other MLG components. This new AD requires revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. This AD was prompted by a determination that new or revised structural inspection requirements are necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 3, 2012 (76 FR 73477, November 29, 2011).

ADDRESSES: For service information identified in this final rule, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4220.

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–2016–4220; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2011–24–06, Amendment 39–16870 (76 FR 73477, November 29, 2011) (''AD 2011–24–06''). AD 2011–24–06 applied to all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes. The SNPRM published in the **Federal Register** on December 13, 2016 (81 FR 89878) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on March 8, 2016 (81 FR 12044) (''the NPRM''). The NPRM was prompted by a determination that new or revised structural inspection requirements are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. We are issuing this AD to detect and correct fatigue cracking of certain structural elements,

which could adversely affect the structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0071, dated March 19, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all BAE Systems (Operations) Limited Model BAe 146 series and Model Avro 146–RJ series airplanes. The MCAI states:

The BAe 146/AVRO 146–RJ Aircraft Maintenance Manual (AMM) includes the Chapters as listed in Appendix 1 of this [EASA] AD. Compliance with these chapters has been identified as a mandatory action for continued airworthiness and EASA AD 2012–0004 was issued to require operators to comply with those instructions.

Since that [EASA] AD was issued, BAE Systems (Operations) Ltd revised the AMM (Revision 107), introducing a new defined life limit for the Fire Bottle Cartridge Firing Unit into Chapter 05–10–15. Subsequently, Revision 108 of the AMM introduced in Chapter 05–20–00 inspection tasks for repairs applied to fatigue critical structures and also introduced a new Chapter 05–20–07 to provide Structural Repair Manual (SRM) references for these tasks, applicable to repairs accomplished after the publication of AMM Revision 108. Finally, AMM Revision 111 introduced safe life limitations into Chapter 05–10–15 for rollers of main landing gear and door up-locks.

Furthermore, Section 6 of the Maintenance Review Board Report (MRBR) Document MRB 146–01, Issue 2, Revision 18 was published (as referenced in Chapter 05–20–01 of the AMM) to correct discrepancies in inspection tasks for a number of Structurally Important Items (SIIs). Grace periods for these revised inspection tasks are included in BAE Systems (Operations) Ltd Inspection Service Bulletin (ISB) ISB.53–237.

Failure to comply with the new and more restrictive tasks and limitations referenced above could result in an unsafe condition.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2012–0004, which is superseded, and requires implementation of the maintenance tasks and/or airworthiness limitations as specified in the defined parts of Chapter 05 of the AMM at Revision 112.

The unsafe condition is fatigue cracking of certain structural elements, which could adversely affect the structural integrity of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4220.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM or on the determination of the cost to the public.

Conclusion

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

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

Costs of Compliance

We estimate that this AD affects 2 airplanes of U.S. registry.

The actions required by AD 2011–24–06 and retained in this AD take about 3 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2011–24–06 is $255 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $170, or $85 per product.

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.

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) 2011–24–06, Amendment 39–16870 (76 FR 73477, November 29, 2011), and adding the following new AD:

2017–12–08 BAE Systems (Operations) Limited: Amendment 39–18923; Docket No. FAA–2016–4220; Directorate Identifier 2015–NM–076–AD.

(a) Effective Date

This AD is effective July 20, 2017.

(b) Affected ADs

This AD replaces AD 2011–24–06, Amendment 39–16870 (76 FR 73477, November 29, 2011) (''AD 2011–24–06'').

(c) Applicability

This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic Inspections.

(e) Reason

This AD was prompted by a determination that new or revised structural inspection requirements are necessary. We are issuing this AD to detect and correct fatigue cracking of certain structural elements, which could

adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Retained Airworthiness Limitations Revisions of the Shock Absorber Assemblies, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2011–24–06, with no changes. Within 90 days after January 3, 2012 (the effective date of AD 2011–24–06), revise the maintenance program, by incorporating Subject 05–10–15, ''Aircraft Equipment Airworthiness Limitations'' of Chapter 05, ''Time Limits/Maintenance Checks,'' of the BAE Systems (Operations) Limited BAe 146 Series/Avro 146–RJ Series Aircraft Maintenance Manual (AMM), Revision 104, dated April 15, 2011, to remove life limits on shock absorber assemblies, but not the individual shock absorber components, amend life limits on main landing gear (MLG) up-locks and door up-locks, and to introduce and amend life limits on MLG components. Accomplishing the actions required by paragraph (i) of this AD terminates the actions required by this paragraph.

(h) Retained No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs), With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2011–24–06, with no changes. Except as specified in paragraph (i) of this AD: After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used, unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New Revision to the Maintenance or Inspection Program

Within 90 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate new and revised limitations, tasks, thresholds, and intervals using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Accomplishing the actions required by this paragraph terminates the actions required by paragraph (g) of this AD.

Note 1 to paragraph (i) of this AD: An additional source of guidance for the actions specified in paragraph (i) of this AD can be found in BAe 146/AVRO 146–RJ Airplane Maintenance Manual, Revision 112, dated October 15, 2013.

Note 2 to paragraph (i) of this AD: An additional source of guidance for the actions specified in paragraph (i) of this AD can be found in Corrosion Prevention Control Program (CPCP) Document No. CPCP–146–01, Revision 4, dated September 15, 2010.

Note 3 to paragraph (i) of this AD: An additional source of guidance for the actions specified in paragraph (i) of this AD can be found in Supplemental Structural Inspections Document (SSID) Document No. SSID–146–01, Revision 2, dated August 15, 2012.

Note 4 to paragraph (i) of this AD: An additional source of guidance for the actions specified in paragraph (i) of this AD can be found in Maintenance Review Board Report Document No. MRB 146–01, Issue 2, Revision 19, dated August 2012.

Note 5 to paragraph (i) of this AD: An additional source of guidance for the actions specified in paragraph (i) of this AD can be found in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–237, Revision 1, dated April 2, 2013.

(j) New No Alternative Actions, Intervals, and/or CDCCLs

After accomplishment of the revision required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used, unless the actions, intervals, and/or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 Branch, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* 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 Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0071, dated March 19, 2014, 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–2016–4220.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; fax 425–227–1149.

(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 this AD specifies otherwise.

(3) The following service information was approved for IBR on January 3, 2012 (76 FR 73477, November 29, 2011).

(i) Subject 05–10–15, ''Aircraft Equipment Airworthiness Limitations'' of Chapter 05, ''Time Limits/Maintenance Checks,'' of the BAE Systems (Operations) Limited BAe 146 Series/Avro 146–RJ Series Aircraft Maintenance Manual, Revision 104, dated April 15, 2011.

(ii) Reserved.

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

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(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 Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12173 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9432; Directorate Identifier 2016–NM–116–AD; Amendment 39–18922; AD 2017–12–07]

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 737–800, –900, and –900ER series airplanes. This AD was prompted by reports of in-flight failure of the left temperature control valve and control cabin trim air modulating valve. This AD requires replacing the left temperature control valve and control cabin trim air modulating valve. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 20, 2017.

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 referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9432.

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–2016–9432; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Stanley Chen, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6585; fax: 425–917–6590; email: *stanley.chen@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 737–800, –900, and –900ER series airplanes. The NPRM published in the **Federal Register** on December 5, 2016 (81 FR 87494). The NPRM was prompted by reports of in-flight failure of the left temperature control valve and control cabin trim air modulating valve. The NPRM proposed to require replacing the left temperature control valve and control cabin trim air modulating valve. We are issuing this AD to prevent temperatures in excess of 100 degrees Fahrenheit in the flight deck or the passenger cabin during cruise, which could lead to the impairment of the flight crew and prevent continued safe flight and landing.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International and United Airlines (UAL) stated that they support the NPRM.

Request To Clarify the Unsafe Condition

Boeing requested that we change a sentence in the Discussion section of the NPRM from ''This condition, if not corrected, could result . . . .'' to ''This condition, if not corrected or mitigated by crew completion of the cabin temperature hot procedure under Section 2.8 of the quick reference handbook (QRH), could result. . . .'' Boeing stated that the cabin temperature hot procedure was created specifically to address failed open temperature control valves. They further stated that this procedure is an effective remedy for failed valves and enhances safety.

We disagree with the request to revise the description of the unsafe condition in the Discussion section. More than half of the affected fleets are operated by non-U.S. air carriers, who are not required to incorporate the revised Flight Crew Operations Manual (FCOM), which includes the QRH. Since this AD does not require incorporation of the FCOM, or the QRH, and instead requires replacement of two control valves, we do not find it appropriate to reference the QRH as a mitigating factor in the description of the unsafe condition. We have not changed this AD regarding this issue.

Request To Allow Maintenance Records Review To Determine Installed Parts

Alaska Airlines (Alaska) asked that we revise paragraph (g) of the proposed AD, which mandates replacement of certain valves, to state that a records review is acceptable for compliance with the requirements of that paragraph (by determining which valves must be replaced). Alaska noted that a similar statement is included as a note in Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016, and that the note and steps 3.B.1.c. and 3.B.1.d. of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016, are not Required for Compliance (RC). (We note that those steps state that no further action is required for nondiscrepant parts.) Alaska indicated that because the NPRM does not include a similar statement, an airline doing only a records check, and finding no discrepant parts, could be considered non-compliant.

We agree with the commenter. Paragraph (g) of this AD requires replacing certain valves in accordance with the Accomplishment Instructions in Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016. We did not intend for operators to need an alternative method of compliance (AMOC) to address the situation described by the commenter. Therefore, we have revised paragraph (g) of this AD to add the phrase ''as applicable'' to the requirement for valve replacements so that operators will not need an AMOC if the correct valve is already installed.

Request To Correct the Manufacturer Information

UAL stated that the header section of the NPRM referenced the wrong aircraft manufacturer, reading: ''Proposed Rule: Airworthiness Directives: Bombardier, Inc. Airplanes.'' UAL noted that it should say The Boeing Company Airplanes.

We acknowledge the commenter's concern. However, the NPRM correctly identifies the manufacturer as Boeing, as published in the **Federal Register**. It was the docket in the Federal Docket Management System (FDMS) that incorrectly identified the manufacturer as Bombardier. This information has been corrected. Therefore, we have not changed this final rule regarding this issue.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC)

ST00830SE does not affect the accomplishment of the manufacturer's service instructions.

We agree with the commenter that STC ST00830SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. We have not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016. The service information describes procedures for replacing the left temperature control valve and control cabin trim air modulating valve, part number 398908–4, with new part number 398908–3 or 398908–5. 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 319 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of valves ..	9 work-hours × $85 per hour = $765 per valve	$4,800	$5,565 per valve	$1,775,235 per valve.

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.

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):

2017–12–07 The Boeing Company: Amendment 39–18922; Docket No. FAA–2016–9432; Directorate Identifier 2016–NM–116–AD.

(a) Effective Date

This AD is effective July 20, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air conditioning.

(e) Unsafe Condition

This AD was prompted by reports of in-flight failure of the left temperature control valve and control cabin trim air modulating valve. We are issuing this AD to prevent temperatures in excess of 100 degrees Fahrenheit in the flight deck or the passenger cabin during cruise, which could lead to the impairment of the flight crew and prevent continued safe flight and landing.

(f) Compliance

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

(g) Replacement of the Left Temperature Control Valve and Control Cabin Trim Air Modulating Valve

Within 60 months after the effective date of this AD, replace the left temperature control valve and control cabin trim air modulating valve, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a temperature control valve, part number 398908–4, in either the left temperature control valve location or the control cabin trim air modulating valve location on any Model 737–800, –900, or –900ER airplane.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14

CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

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

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

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

(j) Related Information

For more information about this AD, contact Stanley Chen, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6585; fax: 425–917–6590; email: *stanley.chen@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–21A1203, dated June 8, 2016.

(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 Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(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 Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12172 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3143; Directorate Identifier 2015–NM–047–AD; Amendment 39–18924; AD 2017–12–09]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (Embraer) Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135 airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes. This AD was prompted by a report of chafing found between the fuel pump electrical harness and the fuel pump tubing during scheduled maintenance. This AD requires a detailed inspection for chafing on the electrical harness of each electrical fuel pump in the fuel tanks, replacement of the affected electrical fuel pump with a new or serviceable pump if necessary, and installation of clamps on the fuel pump electrical harnesses. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 20, 2017.

ADDRESSES: For service information identified in this final rule, contact Empresa Brasileira de Aeronautica S.A. (Embraer), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170–Putim–12227–901 São Jose dos Campos–SP–Brasil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3143.

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–2015–3143; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135 airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes. The SNPRM published in the **Federal Register** on August 5, 2016 (81 FR 51815) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on August 21, 2015 (80 FR 50812) (''the NPRM''). The NPRM proposed to require a detailed inspection for chafing on the electrical harness of each electrical fuel pump in the fuel tanks, replacement of the

affected electrical fuel pump with a new or serviceable pump if necessary, and installation of clamps on the fuel pump electrical harnesses. The NPRM was prompted by a report of chafing found between the fuel pump electrical harness and the fuel pump tubing during scheduled maintenance. The SNPRM proposed to require a detailed inspection for chafing on the electrical harness of each electrical fuel pump in the fuel tanks, replacement of the affected electrical fuel pump with a new or serviceable pump if necessary, and installation of clamps on the fuel pump electrical harnesses. The SNPRM also proposed to require revising the NPRM by expanding the proposed applicability and revising the compliance time for the detailed inspection. We are issuing this AD to detect and correct chafing of the fuel pump harnesses with other parts inside the fuel tank, which could present a potential ignition source that could result in a fire or fuel tank explosion.

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2015–03–01, effective March 23, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135 airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145MP, and –145EP airplanes. The MCAI states:

> Chafing between the fuel pump electrical harness and fuel pump tubing was detected during scheduled maintenance. We are issuing this [Brazilian] AD to protect the fuel pump harnesses against chafing with other parts inside the fuel tank, which could present a potential ignition source that could result in a fire or fuel tank explosion.

The required actions include a detailed inspection for chafing on the electrical harness of each electrical fuel pump in the fuel tanks, replacement of the affected electrical fuel pump with a new or serviceable pump if necessary, and installation of clamps on the fuel pump electrical harnesses. 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–2015–3143.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM 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 AD as proposed except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

We reviewed Embraer Service Bulletin 145–28–0030, Revision 01, dated October 22, 2010; and Embraer Service Bulletin 145LEG–28–0032, Revision 01, dated November 20, 2012. The service information describes procedures for a detailed inspection for chafing on the electrical harness of each electrical fuel pump in the fuel tanks, replacement of the affected electrical fuel pump with a new or serviceable pump if necessary, and installation of clamps on the fuel pump electrical harnesses. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 731 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and installation	11 work-hours × $85 per hour = $935	$0	$935	$683,485

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	6 work-hours × $85 per hour = $510	$11,242	$11,752

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–09 Empresa Brasileira de Aeronautica S.A. (Embraer): Amendment 39–18924; Docket No. FAA–2015–3143; Directorate Identifier 2015–NM–047–AD.

(a) Effective Date

This AD is effective July 20, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes, certificated in any category, as identified in Embraer Service Bulletin 145–28–0030, Revision 01, dated October 22, 2010.

(2) Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135BJ airplanes, certificated in any category, as identified in Embraer Service Bulletin 145LEG–28–0032, Revision 01, dated November 20, 2012.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by a report of chafing found between the fuel pump electrical harness and the fuel pump tubing during scheduled maintenance. We are issuing this AD to detect and correct chafing of the fuel pump harnesses with other parts inside the fuel tank, which could present a potential ignition source that could result in a fire or fuel tank explosion.

(f) Compliance

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

(g) Detailed Inspection and Corrective Action

Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD at the applicable times specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Do a detailed inspection for chafing on the electrical harness of each electrical fuel pump in the fuel tanks, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–28–0030, Revision 01, dated October 22, 2010 (for Model EMB–135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes); or Embraer Service Bulletin 145LEG–28–0032, Revision 01, dated November 20, 2012 (for Model EMB–135BJ airplanes). If any chafing is found, before further flight, replace the affected electrical fuel pump with a new or serviceable pump having the same part number, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–28–0030, Revision 01, dated October 22, 2010; or Embraer Service Bulletin 145LEG–28–0032, Revision 01, dated November 20, 2012; as applicable.

(2) Install clamps on the fuel pump electrical harnesses, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–28–0030, Revision 01, dated October 22, 2010 (for Model EMB–135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes); or Embraer Service Bulletin 145LEG–28–0032, Revision 01, dated November 20, 2012 (for Model EMB–135BJ airplanes).

(h) Compliance Times

(1) For Model EMB–135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes: Do the actions specified in paragraph (g) of this AD within 5,000 flight hours or 24 months after the effective date of this AD, whichever occurs first.

(2) For Model EMB–135BJ airplanes: Do the actions specified in paragraph (g) of this AD within 4,800 flight hours or 48 months after the effective date of this AD, whichever occurs first.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Embraer Service Bulletin 145–28–0030, dated September 1, 2010 (for Model EMB–135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145MP, –145EP, and –145XR airplanes); or Embraer Service Bulletin 145LEG–28–0032, dated September 15, 2011 (for Model EMB–135BJ airplanes), as applicable.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*
Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2015–03–01, effective March 23, 2015, 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–2015–3143.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; fax 425–227–1149.

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

(l) Material Incorporated by Reference

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

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

(i) Embraer Service Bulletin 145–28–0030, Revision 01, dated October 22, 2010.

(ii) Embraer Service Bulletin 145LEG–28–0032, Revision 01, dated November 20, 2012.

(3) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (Embraer), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170–Putim–12227–901 São Jose dos Campos–SP–Brasil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(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 Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12168 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in July 2017 and interest assumptions under the asset allocation regulation for valuation dates in the third quarter of 2017. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective July 1, 2017.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy (*Murphy.Deborah@PBGC.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4400 ext. 3451. (TTY/TDD users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4400 ext. 3451.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulations are also published on PBGC's Web site (*http://www.pbgc.gov*).

The interest assumptions in appendix B to part 4044 are used to value benefits for allocation purposes under ERISA section 4044. PBGC uses the interest assumptions in appendix B to part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for July 2017 and updates the asset allocation interest assumptions for the third quarter (July through September) of 2017.

The third quarter 2017 interest assumptions under the allocation regulation will be 2.44 percent for the first 20 years following the valuation date and 2.74 percent thereafter. In comparison with the interest assumptions in effect for the second quarter of 2017, these interest assumptions represent no change in the select period (the period during which the select rate, the initial rate, applies), an increase of 0.29 percent in the select rate, and an increase of 0.14 percent in the ultimate rate, the final rate.

The July 2017 interest assumptions under the benefit payments regulation will be 1.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for June 2017, these interest assumptions are unchanged.

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

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during July 2017, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects

29 CFR Part 4022

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

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, Rate Set 285, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
285	7–1–17	8–1–17	1.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 285, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
285	7–1–17	8–1–17	1.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE–EMPLOYER PLANS

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

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

■ 5. In appendix B to part 4044, an entry for July–September 2017, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the months—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
July–September 2017	0.0244	1–20	0.0274	>20	N/A	N/A

Issued in Washington, DC.

Deborah Chase Murphy,

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

[FR Doc. 2017–12148 Filed 6–14–17; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0510]

Drawbridge Operation Regulation; Sacramento River, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rio Vista Drawbridge across the Sacramento River, mile 12.8, at Rio Vista, CA. The deviation is necessary to allow the bridge owner to make necessary emergency repairs to the bridge. This deviation allows the bridge to open with one hour advance notice during the deviation period.

DATES: This deviation is effective from 7 p.m. on June 16, 2017 to 4 a.m. on July 1, 2017.

ADDRESSES: The docket for this deviation [USCG–2017–0510], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Rio Vista Drawbridge, mile 12.8, over Sacramento River, at Rio Vista, CA. The drawbridge navigation span provides a vertical clearance of 18 feet above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.5, the draw opens on signal. Navigation on the waterway is commercial, search and rescue, law enforcement, and recreational.

The drawspan will require a one hour advance notice at three specified periods: (1) From 7 p.m. on June 16, 2017 to 4 a.m. on June 17, 2017; (2) from 8 p.m. on June 24, 2017 to 7 a.m. on June 25, 2017; and (3) from 7 p.m. on June 30, 2017 to 4 a.m. on July 1, 2017, to allow the bridge owner to make emergency repairs to the bridge deck. A one hour advance notice will give enough time for the contractor to clear away equipment and workers before the drawspan can safely open for transiting vessels. Scaffolding will be installed below the bridge deck from June 16, 2017 through July 1, 2017, reducing the vertical clearance by 4 feet, and will extend from the west tower 48 feet into the navigational channel. This temporary deviation has been coordinated with the waterway users.

No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies with one hour advance notice. There is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: June 12, 2017.

C.T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–12417 Filed 6–14–17; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2016–9]

Supplementary Registration

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

ACTION: Final rule.

SUMMARY: The United States Copyright Office is modernizing its registration practices to increase the efficiency of the registration process for both the Office and copyright owners. To further these efforts, this final rule adopts modifications to the Office's procedures for supplementary registration. Specifically, the Office adopts a new rule that, in most cases, requires applicants to submit an online application in order to correct or amplify the information set forth in a basic registration. In addition, the Office is amending the regulation to codify and update certain practices that are set forth in the *Compendium of U.S. Copyright Office Practices, Third Edition* and to improve the readability of the regulation.

DATES: Effective July 17, 2017.

FOR FURTHER INFORMATION CONTACT: Robert J. Kasunic, Associate Register and Director of Registration Policy and Practice, by telephone at (202) 707–8040; Erik Bertin, Deputy Director of Registration Policy and Practice, by telephone at 202–707–8040; or Emma Raviv, Barbara A. Ringer Fellow, by telephone at 202–707–3246.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 2016, the Copyright Office (the ''Office'') published a Notice of Proposed Rulemaking (''NPRM'') setting forth proposed regulatory amendments designed to make the procedure for supplementary registration more efficient. *See* 81 FR 86656 (Dec. 1, 2016). A supplementary registration is a special type of registration that may be used ''to correct an error in a copyright registration or to amplify the information given in a registration.'' *Id.* Specifically, it identifies an error or omission in an existing registration (referred to herein as a ''basic registration'') and places the corrected information or additional information in the public record. Section 408(d) of the Copyright Act authorizes the Register of Copyrights to establish such procedures. 17 U.S.C. 408(d).

The NPRM explained in detail the rationale for one major change to the supplementary registration procedures. Previously, and since 2007, the Office allowed and encouraged applicants to register their works through the electronic registration system, *see* 72 FR 36883 (July 6, 2007), but to seek a supplementary registration, applicants had to submit a paper application using Form CA. 37 CFR 201.5(c)(1), (c)(2). Under the rule proposed in the NPRM, applicants will be required to file an online application to correct or amplify the information set forth in a basic registration for any work that is capable of being registered through the electronic system, rather than filing a paper application. The NPRM identified the types of works that will be subject to this online filing requirement when the rule goes into effect, as well as other works that will be subject to this requirement in the near future. 81 FR at 86657–58 & nn. 3–8. The NPRM stated that if the Office subsequently moves registrations for other classes of works into the electronic system, supplementary registrations for those works will also be subject to this same requirement. *Id.* at 86658. Finally, the NPRM stated that applicants will be required to submit a paper application using Form CA to correct or amplify the registration record for works that cannot be registered through the electronic system, and it identified the three types of works that remain subject to the paper filing requirement. 81 FR at 86658 & nn. 11–13.

The NPRM also proposed modifications to certain practices relating to supplementary registration. First, it clarified that the fee for online submission of a supplementary registration will be the same as the fee for paper submission, and that applicants may be assessed an additional fee if the basic registration has not yet been digitized by the Office, and if the applicant fails to provide a copy of that registration during the examination. Second, the NPRM proposed updating the regulation to reflect examination practices described in the *Compendium of U.S. Copyright Office Practices, Third Edition* (hereinafter ''*Compendium*''), the rules regarding when supplementary registration will be declined, and the practices regarding cross-references in the Office's public record. The NPRM also proposed clarifying the relationship between the basic and supplementary registrations, requiring a certification that the applicant has reviewed the basic registration, and laying out the referral procedure in the event of an Office error.

The Office received four comments in response to the NPRM, from Authors Guild (''AG''); the Motion Picture Association of America, Inc. (''MPAA''); Author Services, Inc., representing the literary, theatrical, and musical works of L. Ron Hubbard (''Author Services''); and a coalition of organizations and advocates representing visual artists including photographers, videographers, illustrators, artists, and designers, as well as their licensing representatives (the ''Coalition of Visual Artists''). The Coalition of Visual Artists generally supported the modifications proposed in the NPRM, but articulated some concerns relating to the Office's separate rulemaking regarding group registration of photographs.[1] Author Services, MPAA, and AG noted some objections but overall supported the proposed modifications. Having reviewed and carefully considered the comments received, the Office now issues a final rule that closely follows the proposed rule, with some alterations in response to the comments, as discussed below.[2]

[1] 81 FR 86643 (Dec. 1, 2016).

[2] The final rule also makes some technical amendments to the proposed rule. It moves the regulation on supplementary registration to part 202 of title 37, which is the part that specifically addresses copyright registration. It also corrects spelling and punctuation discrepancies that appeared in §§ 201.3(c)(9)(ii) and 201.5(d)(4)(i) and (ii) of the proposed rule.

II. Discussion of Comments

A. Online Filing Requirement

MPAA, Author Services, and the Coalition of Visual Artists all generally support the proposal to require applicants to use the Office's electronic registration system to seek a supplementary registration. But these parties did voice some concerns about a complete transition to the digital system.

MPAA noted that there may be situations where the online system may be unavailable. MPAA suggested that applicants should be allowed to submit a paper application on the ''rare occasion(s)'' where the online system is down and an online application cannot be filed. MPAA Comments at 2. This is a legitimate concern, but it is not limited to supplementary registration. It potentially affects any USCO service or function that is offered or provided solely online, including preregistration, the designation for agents for online service providers, and responses to notices of proposed rulemaking. The Office recently proposed a rule in a separate rulemaking to provide a means for preserving/establishing a filing date for a supplementary registration—or any other type of registration—in cases where the electronic system is offline. *See* 82 FR 12326 (March 2, 2017).

AG agreed that the ''policy considerations'' for requiring applicants to use an online application ''are sound.'' AG Comments at 3. They recognized that paper applications ''result in more work for the [Office].'' *Id.* at 2. However, AG expressed concern that a number of authors may prefer to use a paper application or may not have convenient access to the internet. *Id.* AG stated that the Office should continue to offer the paper application for a modest fee and should determine if there is sufficient demand for Form CA before phasing it out.[3] *Id.*

Although the Office acknowledges the concerns, it has decided to implement the online application requirement and eliminate the paper application option for most works. The Office recognizes, however, that authors are accustomed to using Form CA. To ease the transition from the paper application to the online form, the Office is developing several new resources. The Office will revise Chapters 1400 and 1800 of the *Compendium,* which discuss the Office's practices and procedures for issuing supplementary registrations. The Office will also update Circular 8, which provides a general introduction to the topic of supplementary registration. The Office is also revising the instructions for Form CA to clarify the situations where this form can and cannot be used. And the Office has added a notice to the current form and instructions noting that in most cases, Form CA may not be used once the final rule goes into effect.

In addition, the Office is also preparing an online tutorial that explains how to use the online application, and has prepared extensive help text within the application itself that should provide answers to frequently asked questions. In addition, Copyright Office staff will make themselves available to deliver tutorials for groups that are interested in learning more about the online registration process.

The Office recognizes that some authors may not have broadband internet service or a convenient means of accessing the Office's Web site. In such cases, applicants could conceivably hire an attorney or seek pro bono representation to file the application on their behalf. But the Office recognizes that, as AG noted in its comments, this may impose a burden on applicants. AG Comments at 2. As AG suggested, the Office will address these concerns by offering ''special dispensation on a case by case basis.'' *Id.* The following provision (§ 202.6(e)(7)) has accordingly been added to the final rule: ''In an exceptional case, the Copyright Office may waive the requirements set forth in paragraph (e)(1) of this section, subject to such conditions as the Associate Register and Director of the Office of Registration Policy and Practice may impose on the applicant.'' Authors who do not have internet access and are unable to use the online application should contact the Office, and the Office will review the specific details of their cases and determine their eligibility.

The Office will then make accommodations for applicants who receive a waiver under this provision. One accommodation that the Office plans to implement will be to allow such applicants to contact the Public Information Office (''PIO'') by telephone for assistance in filling out the application. A member of the staff will ask the applicant to provide the information that is called for in the application, such as the title of the work and the number assigned to the basic registration. In addition, PIO staff will ask the applicant to identify the information in the basic registration that should be corrected or amplified. PIO staff will enter this information into the electronic registration system. Then they will print a copy of the application and mail it to the applicant for his or her review. If the applicant approves the draft, he or she will sign the application and mail it back to the Office, along with a check to cover the filing fee. In providing this service, members of the PIO staff are not providing legal advice; their assistance is merely a service for convenience, and applicants remain responsible for providing accurate and complete information in their applications. Applicants should be aware that if they use this option, the effective date for their supplementary registration will be based on the date that the signed application and the filing fee are received. At this time, the Office does not intend to charge an additional fee for applicants who submit applications with the assistance of PIO. The Office will track the number of applicants who use this option and the amount of time needed to handle these requests. The Office will use this information in conducting its next fee study.

B. Copy of the Basic Registration

The NPRM explains that in certain circumstances, a registration specialist may ask the applicant to provide a copy of the basic registration certificate if that certificate had not previously been digitized by the Office (and thus cannot be retrieved through the electronic system). 81 FR 86659. Author Services contends that applicants should be allowed to digitally upload a copy of the basic registration certificate at the time of application (rather than waiting for the Office to request the certificate), and, indeed, should be required to do so in all cases. Author Services Comments at 1. Absent such an option, it opposes the proposed fee for preparing an additional copy of the basic registration. *Id.* at 2.

While it may be possible to add an upload feature to the online application, doing so would increase the cost of development and delay the implementation of the release. And, in any event, submitting a copy of the basic registration certificate is unnecessary in most cases. As explained in the NPRM, the examiner should be able to generate a copy of the certificate from the Office's electronic system, if the registration was issued after 1994. If the certificate is not available through the electronic system, the examiner will ask the applicant to submit a copy via email. In most of those cases, the applicant should be able to provide a copy of the certificate, because the rule requires the applicant to certify that he

[3] AG filed comments on behalf of its 9,000 members but apparently did not poll its members to determine if they would prefer to use a paper application or if they would be unable to use the online application due to a lack of internet access.

or she reviewed the basic registration certificate before submitting the application. If the applicant nevertheless is unable to submit a copy of the certificate in response to the examiner's request, *only then* will the Office will charge an additional fee to generate the basic certificate. 81 FR 86659 & n.21. Thus, Authors Services' concern regarding the fee will not arise in any case where the applicant has the basic registration certificate at hand.

C. Other Concerns

The Coalition of Visual Artists expressed concern that defendants often challenge the validity of basic registrations if there appear to be any errors in the certificate, even if they are merely technical mistakes. Coalition of Visual Artists Comments at 11–12. It urged that such errors ''should not invalidate registrations, and shouldn't require subsequent filing or correction costs,'' and encouraged the Office to provide more guidance as to the types of errors that are considered harmless/immaterial and, as such, do not require the filing of a supplementary registration for purposes of correcting the basic registration. *Id.* at 12.

Compendium section 1800 provides detailed guidance on the types of corrections and amplifications that can or cannot be made with a supplementary registration, but the Office generally does not distinguish between material and immaterial errors. Nor would it be appropriate, in the context of this rulemaking, for the Office to attempt to catalog what errors are or are not material. In general, the Office encourages applicants to file applications for supplementary registration as soon as any errors in the basic application are discovered, and especially before initiating an infringement suit. If the Office is aware that a lawsuit has been filed, it may suspend further action on an application for supplementary registration until the dispute has been resolved if the proposed change is likely to be directly at issue in the case.

Photographers represented by the Coalition of Visual Artists expressed concern that they would need to submit a separate application in order to correct each defect in a registration, such as errors in publication status, publication year, or the nation of first publication. Coalition of Visual Artists Comments at 13–14. This concern appears to be based on a misunderstanding of the rule: It should be possible to address all of the errors in a basic registration as part of one supplementary registration application, so long as those changes are otherwise permitted. *Compendium* sec. 1802.9(D).

The photographers also expressed concerns with respect to the interaction between this rule and the separate proposed rule regarding group registration for unpublished photographs. *See* 81 FR 86643 (Dec. 1, 2016). They worried that if they use the group option for unpublished photographs, they may need to file a supplementary registration if some of the photographs in that group are published at some point in the future. They also expressed concern that a supplementary registration may be needed if the photographer needs to ''change, revise or edit'' the works that are later chosen for publication. Coalition of Visual Artists Comments at 11. Both concerns are misplaced. When the Office issues a group registration, it is effective as of the date that the application fee and deposit are received. If the photographs were unpublished as of that date, there is no need to correct or amplify the record if some or all of those works are later published. The fact that some or all of the photographs may be published at some point in the future does not affect the validity of the original registration. Indeed, if an applicant sought a supplementary registration seeking to change a registration for a group of unpublished photographs based on the later publication of some or all of those photographs, the Office would refuse to issue it. The regulation expressly states that a supplementary registration cannot be used to reflect ''changes in facts'' that occurred after the basic registration was issued, such as a subsequent change in publication status. Nor may a supplementary registration be used to reflect changes in the content of the work, such as the preparation of a new version of a preexisting work. 37 CFR 201.5(b)(2)(iii).

Of course, photographers may seek a new basic registration when they create a new or derivative version of a preexisting image. And they may seek a new basic registration when a previously unpublished photograph has been published. 37 CFR 202.3(b)(11)(i). But this is not necessary to maintain the validity of an existing registration for the unpublished photograph or the preexisting photograph that was used to create the derivative work.

Finally, the photographers represented by the Coalition of Visual Artists noted that it is difficult to distinguish between a published and an unpublished photograph. Coalition of Visual Artists Comments at 15. According to them, photographers may (presumably unintentionally) combine published and unpublished photographs in the same registration application, even though the Office's various registration options for multiple works require published and unpublished works to be registered separately. *Id.*

Although the distinction between published and unpublished works is beyond the scope of this rulemaking, the Office notes that its rules regarding supplementary registration allow correction of such mistakes. Specifically, a supplementary registration may be used to exclude any published photographs from the group and limit the claim to the unpublished photographs that were unpublished as of the effective date (or vice versa). The Office notes, however, that under its rule it will not be possible to split the registration into two separate claims—one registration covering the unpublished photographs and the other covering the published ones. In such cases, a new basic registration would be needed to register the photographs that were excluded from the earlier registration. The deposit requirements for published and unpublished photographs are the same, as the Coalition for Visual Artists noted, but the eligibility and application requirements for such works are significantly different. Indeed, in general, when the Office registers works under one type of registration procedure, it will not accept an application that seeks to reclassify the works under a different type of procedure. For example, a supplementary registration cannot be used to change a registration for a group of published photographs into a registration for a compilation, a collective work, photographic database (or vice versa). These types of changes would alter the fundamental nature of the claim, and would undermine the legal presumptions afforded to the initial examination of the works. And it would be inconsistent with the statutory and regulatory provisions stating that a supplementary registration augments—but does not supersede—the basic registration. 17 U.S.C. 408(d); 37 CFR 201.5(d)(2).

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Preregistration and registration of claims to copyright.

Final Regulations

For the reasons set forth in the preamble, the U.S. Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.3 by revising paragraph (c)(9) to read as follows:

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

* * * * *

(c) * * *

(9) Registration of a correction or amplification to a claim:	
(i) Supplementary registration: Electronic filing or paper filing	130
(ii) Correction of a design registration: Form DC	100

* * * * *

§ 201.5 [Removed and Reserved]

■ 3. Remove and reserve § 201.5.

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 4. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

§ 202.3 [Amended]

■ 5. Amend § 202.3 as follows:

■ a. In paragraph (b)(11)(iii), remove the phrase ''by that applicant; and'' and add in its place ''by that applicant.''

■ b. Remove paragraph (b)(11)(iv).

■ 6. Add § 202.6 to read as follows:

§ 202.6 Supplementary registration.

(a) *General.* This section prescribes conditions relating to the filing of an application for supplementary registration under section 408(d) of title 17 of the United States Code to correct an error in a copyright registration or to amplify the information given in a registration. No correction or amplification of the information in a basic registration will be made except pursuant to the provisions of this section. As an exception, where it is discovered that a basic registration contains an error caused by the Copyright Office's own action, the Office will take appropriate measures to rectify its mistake.

(b) *Definitions.* (1) A *basic registration* means any of the following:

(i) A copyright registration made under sections 408, 409, and 410 of title 17 of the United States Code;

(ii) A renewal registration made under section 304 of title 17 of the United States Code; or

(iii) A copyright registration or a renewal registration made under title 17 of the United States Code as it existed before January 1, 1978.

(2) A *supplementary registration* means a registration issued under section 408(d) of title 17 of the United States Code and the provisions of this section.

(c) *Persons entitled to file an application for supplementary registration.* Supplementary registration can be made only if a basic copyright registration for the same work has already been completed. After a basic registration has been completed, any author or other copyright claimant of the work, or the owner of any exclusive right in the work, or the duly authorized agent of any such author, other claimant, or owner, who wishes to correct or amplify the information given in the basic registration for the work may file an application for supplementary registration.

(d) *Basis for issuing a supplementary registration.* (1) Supplementary registration may be made either to correct or to amplify the information in a basic registration.

(2) A *correction* is appropriate if information in the basic registration was incorrect at the time that basic registration was made.

(3) An *amplification* is appropriate:

(i) To supplement or clarify the information that was required by the application for the basic registration and should have been provided, such as the identity of a co-author or co-claimant, but was omitted at the time the basic registration was made; or

(ii) To reflect changes in facts, other than those relating to transfer, license, or ownership of rights in the work, that occurred since the basic registration was made.

(4) Supplementary registration is not appropriate:

(i) To reflect a change in ownership that occurred on or after the effective date of the basic registration or to reflect the division, allocation, licensing, or transfer of rights in a work;

(ii) To correct errors in statements or notices on the copies or phonorecords of a work, or to reflect changes in the content of a work; or

(iii) To correct or amplify the information set forth in a basic registration that has been cancelled under § 201.7 of this chapter.

(5) If an error or omission in a basic renewal registration is extremely minor, and does not involve the identity of the renewal claimant or the legal basis of the claim, supplementary registration may be made at any time. In an exceptional case, however, supplementary registration may be made to correct the name of the renewal claimant and the legal basis of the claim if clear, convincing, and objective documentation is submitted to the Copyright Office which proves that an inadvertent error was made in failing to designate the correct living statutory renewal claimant in the basic renewal registration.

(6) In general, the Copyright Office will not issue a supplementary registration for a basic registration made under title 17 of the United States Code as it existed before January 1, 1978. In an exceptional case, the Copyright Office may issue a supplementary registration for such a registration, if the correction or amplification is supported by clear, convincing, and objective documentation.

(e) *Application for supplementary registration.* (1) To seek a supplementary registration for a work registered in Class TX, PA, VA, SR, or SE., an unpublished collection or a unit of publication registered under § 202.3, or a group of related works registered under § 202.3(b)(6) through (10) or § 202.4, an applicant must complete and submit the online application designated for supplementary registration.

(2) To seek a supplementary registration for a database that consists predominantly of photographs registered under § 202.3(b)(5), an applicant must complete and submit the online application designated for supplementary registration after consultation with and under the direction of the Visual Arts Division.

(3) To seek a supplementary registration for a restored work registered under § 202.12, a database that does not consist predominantly of photographs registered under § 202.3(b)(5), or a renewal registration, an applicant must complete and submit a paper application using Form CA.

(4) Before submitting the application, the applicant must sign a certification stating that the applicant reviewed a copy of the certificate of registration for the basic registration that will be corrected or amplified by the supplementary registration. To obtain a copy of the certificate, the applicant may submit a written request to the Records Research and Certification Section using the procedure set forth in Chapter 2400 of the *Compendium of*

U.S. Copyright Office Practices, Third Edition.

(5) The appropriate filing fee, as required by § 201.3(c) of this chapter, must be included with the application or charged to an active deposit account. At the Office's discretion, the applicant may be required to pay an additional fee to make a copy of the certificate of registration for the basic registration that will be corrected or amplified by the supplementary registration.

(6) Copies, phonorecords, or supporting documents cannot be made part of the record for a supplementary registration and should not be submitted with the application.

(7) In an exceptional case, the Copyright Office may waive the requirements set forth in paragraph (e)(1) of this section, subject to such conditions as the Associate Register and Director of the Office of Registration Policy and Practice may impose on the applicant.

(f) *Effect of supplementary registration.* (1) When the Copyright Office completes a supplementary registration, it will issue a certificate of supplementary registration bearing a new registration number in the appropriate class. The Office will cross-reference the records for the basic registration and the supplementary registration by placing a note in each record that identifies the registration number and effective date of registration for the related registration.

(2) As provided in section 408(d) of title 17 of the United States Code, the information contained in a supplementary registration augments but does not supersede that contained in the basic registration. The basic registration will not be expunged or cancelled.

Dated: May 31, 2017.

Karyn Temple Claggett,

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

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2017–12453 Filed 6–14–17; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0748; FRL–9963–48–Region 4]

Air Plan Approvals; TN; Prong 4–2010 NO_2, SO_2, and 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is conditionally approving the visibility transport (prong 4) portions of revisions to the Tennessee State Implementation Plan (SIP), submitted by the Tennessee Department of Environment and Conservation (TDEC), addressing the Clean Air Act (CAA or Act) infrastructure SIP requirements for the 2010 1-hour Nitrogen Dioxide (NO_2), 2010 1-hour Sulfur Dioxide (SO_2), and 2012 annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an ''infrastructure SIP.'' Specifically, EPA is conditionally approving the prong 4 portions of Tennessee's March 13, 2014, 2010 1-hour NO_2 and 2010 1-hour SO_2 infrastructure SIP submission and December 16, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

DATES: This rule is effective July 17, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2016–0748. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIPs. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section

110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

Tennessee's March 13, 2014, 2010 1-hour NO_2 and 2010 1-hour SO_2 submission cites to the State's regional haze SIP and Clean Air Interstate Rule (CAIR) SIP as satisfying prong 4 requirements.[1] In its December 16, 2015, 2012 annual $PM_{2.5}$ submission, the State notes that it is developing a regional haze SIP revision with the intent to obtain a fully-approved regional haze SIP and that Tennessee's SIP will be adequate with regard to prong 4 if EPA approves that revision. As explained in a notice of proposed rulemaking (NPRM) published on March 2, 2017 (82 FR 12328), EPA has not yet fully approved Tennessee's existing regional haze SIP because the SIP relies on CAIR to satisfy the nitrogen oxides (NO_X) and SO_2 Best Available Retrofit Technology (BART) requirements for the CAIR-subject electric generating units (EGUs) in the State and the requirement for a long-term strategy sufficient to achieve the state-adopted reasonable progress goals.[2] Therefore, on December 7, 2016, Tennessee submitted a commitment letter to EPA requesting conditional approval of the prong 4 portions of the aforementioned infrastructure SIP revisions.

In its commitment letter, Tennessee commits to submit an infrastructure SIP revision, within one year of final conditional approval, that will satisfy the prong 4 requirements for the 2010 1-hour NO_2 NAAQS, 2010 1-hour SO_2 NAAQS, and 2012 annual $PM_{2.5}$ NAAQS through reliance on a fully-approved regional haze SIP or through an analysis showing that emissions from sources in Tennessee will not interfere with the attainment of the reasonable progress goals of other states. If the revised infrastructure SIP revision relies on a fully-approved regional haze SIP revision to satisfy prong 4 requirements, Tennessee also commits to providing the necessary regional haze SIP revision to EPA within one year of EPA's final conditional approval.

If Tennessee meets its commitment within one year of final conditional approval, the prong 4 portions of the conditionally approved infrastructure SIP submissions will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revision(s). However, if the State fails to submit these revisions within the one-year timeframe, the conditional approval will automatically become a disapproval one year from EPA's final conditional approval and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c).

In the March 2, 2017, NPRM, EPA proposed to conditionally approve the prong 4 portions of the aforementioned infrastructure SIP submissions. The NPRM provides additional detail regarding the rationale for EPA's action, including further discussion of the prong 4 requirements and the basis for Tennessee's commitment letter. Comments on the proposed rulemaking were due on or before April 3, 2017. EPA received no adverse comments on the proposed action.

II. Final Action

As described above, EPA is conditionally approving the prong 4 portions of Tennessee's March 13, 2014, 2010 1-hour NO_2 and 2010 1-hour SO_2 infrastructure SIP submission and December 16, 2015, 2012 $PM_{2.5}$ infrastructure SIP submission. All other outstanding applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided 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);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9,

[1] In its March 13, 2014, submission, Tennessee states that its regional haze SIP and its ''CAIR SIP are sufficient to ensure emissions within its jurisdiction do not interfere with other agencies' plans to protect visibility.'' However, as Tennessee notes in its submittal, a state's infrastructure SIP submission can satisfy prong 4 solely through confirmation that the state has a fully approved regional haze SIP.

[2] CAIR, promulgated in 2005, required 27 states and the District of Columbia to reduce emissions of NO_X and SO_2 that significantly contribute to, or interfere with maintenance of, the 1997 NAAQS for fine particulates and/or ozone in any downwind state. CAIR imposed specified emissions reduction requirements on each affected State, and established several EPA-administered cap and trade programs for EGUs that States could join as a means to meet these requirements.

2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 25, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

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 RR—Tennessee

■ 2. Add § 52.2219 to read as follows:

§ 52.2219 Conditional approval.

Tennessee submitted a letter to EPA on December 7, 2016, with a commitment to address the State Implementation Plan deficiencies regarding requirements of Clean Air Act section 110(a)(2)(D)(i)(II) related to interference with measures to protect visibility in another state (prong 4) for the 2010 1-hour NO_2, 2010 1-hour SO_2, and 2012 annual $PM_{2.5}$ NAAQS. EPA conditionally approved the prong 4 portions of Tennessee's March 13, 2014, 2010 1-hour NO_2 and 2010 1-hour SO_2 infrastructure SIP submission and December 16, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission in an action published in the **Federal Register** on June 15, 2017. If Tennessee fails to meet its commitment by June 15, 2018, the conditional approval will automatically become a disapproval on that date and EPA will issue a finding of disapproval.

[FR Doc. 2017–12342 Filed 6–14–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3170

[17X.LLWO310000.L13100000.PP0000]

RIN 1004–AE14

Waste Prevention, Production Subject to Royalties, and Resource Conservation; Postponement of Certain Compliance Dates

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification; postponement of compliance dates.

SUMMARY: On November 18, 2016, the Bureau of Land Management (BLM) issued a final rule entitled, ''Waste Prevention, Production Subject to Royalties, and Resource Conservation'' (the ''Waste Prevention Rule'' or ''Rule''). Immediately after the Waste Prevention Rule was issued, petitions for judicial review of the Rule were filed by industry groups and States with significant BLM-managed Federal and Indian minerals. This litigation has been consolidated and is now pending in the U.S. District Court for the District of Wyoming. In light of the existence and potential consequences of the pending litigation, the BLM has concluded that justice requires it to postpone the compliance dates for certain sections of the Rule pursuant to the Administrative Procedure Act, pending judicial review.

DATES: June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Timothy Spisak at the BLM Washington Office, 20 M Street SE., Room 2134 LM, Washington, DC 20003, or by telephone at 202–912–7311. For questions relating to regulatory process issues, contact Faith Bremner at 202–912–7441.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact these individuals during normal business hours. FRS is available 24 hours a day, 7 days a week to leave a message or question with these individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

On November 18, 2016, the BLM published the Waste Prevention Rule. (81 FR 83008) The Rule addresses, among other things, the loss of natural gas through venting, flaring, and leaks during the production of Federal and Indian oil and gas. The Rule replaced Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (1980) (''NTL–4A''), which governed the venting and flaring of Federal and Indian gas for more than three decades. In addition to updating and revising the requirements of NTL–4A, the Rule contained new requirements that operators capture a certain percentage of the gas they produce (43 CFR 3179.7), measure flared volumes (43 CFR 3179.9), upgrade or replace pneumatic equipment (43 CFR 3179.201–179.202), capture or combust storage tank vapors (43 CFR 3179.203), and implement leak detection and repair (LDAR) programs (43 CFR 3179.301–.305). The Rule did not obligate operators to comply with these new requirements until January 17, 2018. Compliance with certain other provisions of the Rule is already mandatory, including the requirement that operators submit a ''waste minimization plan'' with applications for permits to drill (43 CFR 3162.3–1), new regulations for the royalty-free use of production (43 CFR subpart 3178), new regulatory definitions of ''unavoidably lost'' and ''avoidably lost'' oil and gas (43 CFR 3179.4), limits on venting and flaring during drilling and production operations (43 CFR 3179.101–179.105), and requirements for downhole well maintenance and liquids unloading (43 CFR 3179.204).

Immediately after the Rule was issued, petitions for judicial review of the Rule were filed by industry groups and States with significant BLM-managed Federal and Indian minerals. The petitioners in this litigation are the Western Energy Alliance (WEA), the Independent Petroleum Association of

America, the State of Wyoming, the State of Montana, the State of North Dakota, and the State of Texas. This litigation has been consolidated and is now pending in the U.S. District Court for the District of Wyoming. *Wyoming* v. *U.S. Dep't of the Interior,* Case No. 2:16–cv–00285–SWS (D. Wyo.). Petitioners assert that the BLM was arbitrary and capricious in promulgating the Rule and that the Rule exceeds the BLM's statutory authority.

On March 28, 2017, the President issued Executive Order No. 13783 (E.O. 13783) entitled, ''Promoting Energy Independence and Economic Growth.'' E.O. 13783 directed the Secretary of the Interior (Secretary) to review the Rule for consistency with the policies set forth in Section 1 of E.O. 13783 and, if appropriate, publish for notice and comment a proposed rule suspending, revising, or rescinding the Rule. E.O. 13783 Sec. 7(b). On March 29, 2017, the Secretary issued Secretarial Order 3349 implementing E.O. 13783. The Department's review of the Rule is ongoing.

The Secretary has received written requests from WEA and the American Petroleum Institute (API) that the BLM suspend the Rule or postpone its compliance dates in light of the regulatory uncertainty created by the pending litigation and the ongoing administrative review of the Rule. Letter from Kathleen M. Sgamma to Secretary Zinke (April 4, 2017); letter from Jack N. Gerard to Secretary Zinke (May 16, 2017). Both API and WEA stated that operators face the prospect of significant expenditures to comply with provisions of the Rule that will become operative in January 2018. WEA specifically noted that the LDAR, storage tank, and pneumatic device provisions will require operators to begin purchasing and installing tens of thousands of replacement parts in the near future.

Section 705 of the Administrative Procedure Act (APA), 5 U.S.C. 705, provides that, ''[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.'' The Rule obligates operators to comply with its ''capture percentage,'' flaring measurement, pneumatic equipment, storage tank, and LDAR provisions beginning on January 17, 2018. This compliance date has not yet passed and is within the meaning of the term ''effective date'' as that term is used in Section 705 of the APA. Considering the substantial cost that complying with these requirements poses to operators (see U.S. Bureau of Land Management, Regulatory Impact Analysis for: Revisions to 43 CFR subpart 3100 (Onshore Oil and Gas Leasing) and 43 CFR subpart 3600 (sic) (Onshore Oil and Gas Operations), Additions of 43 CFR subpart 3178 (Royalty-Free Use of Lease Production) and 43 CFR subpart 3179 (Waste Prevention and Resource Conservation) (November 10, 2016)), and the uncertain future these requirements face in light of the pending litigation and administrative review of the Rule, the BLM finds that justice requires it to postpone the future compliance dates for the following sections of the Rule: 43 CFR 3179.7, 3179.9, 3179.201, 3179.202, 3179.203, and 3179.301–3179.305.

While the BLM believes the Waste Prevention Rule was properly promulgated, the petitioners have raised serious questions concerning the validity of certain provisions of the Rule. Given this legal uncertainty, operators should not be required to expend substantial time and resources to comply with regulatory requirements that may prove short-lived as a result of pending litigation or the administrative review that is already under way. Postponing these compliance dates will help preserve the regulatory status quo while the litigation is pending and the Department reviews and reconsiders the Rule.

The provisions with compliance dates that have passed and are therefore unaffected by this document include: the requirement that operators submit a ''waste minimization plan'' with applications for permits to drill (43 CFR 3162.3–1), new regulations for the royalty-free use of production (43 CFR subpart 3178), new regulatory definitions of ''unavoidably lost'' and ''avoidably lost'' oil and gas (43 CFR 3179.4), limits on venting and flaring during drilling and production operations (43 CFR 3179.101–179.105), and requirements for downhole well maintenance and liquids unloading (43 CFR 3179.204).

Separately, the BLM intends to conduct notice-and-comment rulemaking to suspend or extend the compliance dates of those sections affected by the Rule.

II. Postponement of Compliance Dates

Pursuant to Section 705 of the APA, the BLM hereby postpones the future compliance dates for the following sections affected by the final rule entitled, ''Waste Prevention, Production Subject to Royalties, and Resource Conservation'', pending judicial review: 43 CFR 3179.7, 3179.9, 3179.201, 3179.202, 3179.203, and 3179.301–3179.305. BLM will publish a document announcing the outcome of that review.

Dated: June 9, 2017.

Katharine S. MacGregor

Delegated the Authority of the Assistant Secretary for Land and Minerals Management.

[FR Doc. 2017–12325 Filed 6–14–17; 8:45 am]

BILLING CODE 4310–84–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

National Endowment for the Arts

45 CFR Parts 1149 and 1158

RIN 3135–AA33

Implementing the Federal Civil Penalties Adjustment Act Improvements Act of 2015

AGENCY: National Endowment for the Arts, National Foundation for the Arts and Humanities.

ACTION: Interim final rule; request for comments.

SUMMARY: The National Endowment for the Arts (NEA) is adjusting the maximum civil monetary penalties that may be imposed for violations of the Program Fraud and Civil Remedies Act (PFCRA) and the NEA's Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect.

DATES:

Effective date: This rule is effective June 15, 2017.

Comments date: Submit comments on or before July 17, 2017.

ADDRESSES: You may submit comments, identified by RIN 3135–AA33, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: generalcounsel@arts.gov.* Include RIN 3135–AA33 in the subject line of the message.
- *Mail:* National Endowment for the Arts, Office of the General Counsel, 400 7th Street SW., Second Floor, Washington, DC 20506.
- *Hand Delivery/Courier:* National Endowment for the Arts, Office of the General Counsel, 400 7th Street SW., Second Floor, Washington, DC 20506.

Instructions: All submissions received must include the agency name and docket number or Regulatory

Information Number (3135–AA27) for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to 400 7th Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Aswathi Zachariah, Assistant General Counsel, National Endowment for the Arts, 400 7th St. SW., Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

1. Background

The 2015 Act requires agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rulemaking; and (2) make subsequent annual adjustments for inflation. Inflation adjustments will be based on the percent change in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment, relative to the October CPI–U in the year of the previous adjustment.

The Office of Management and Budget has issued two memoranda, providing guidance on implementing and calculating adjustments.[1]

The NEA has identified two civil penalties in its regulations that require adjustment: (1) The penalty associated with Restrictions on Lobbying (45 CFR 1158.400; 45 CFR part 1158, app. A) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 1149.9).

2. Method of Calculation

For the first adjustment made in accordance with the 2015 Act, the amount of the adjustment is calculated based on the percent change between the CPI–U for October of the last year in which penalties were previously adjusted (not including any adjustment made pursuant to the Inflation Adjustment Act before November 2, 2015), and the CPI–U for October 2015. The 10 percent cap on adjustments imposed by the Debt Collection Improvement Act of 1996 has been eliminated by the 2015 Act. Instead, the 2015 Act imposes a cap on the amount of this initial adjustment, such that the amount of the increase may not exceed 150 percent of the pre-adjustment penalty amount or range. As a result, the total penalty amount or range after the initial adjustment under the 2015 Act may not exceed 250 percent of the pre-adjustment penalty amount or range.

The 2015 Act also requires agencies to make annual adjustments to civil penalty amounts no later than January 15 of each year following the initial adjustment described above. For annual adjustments made in accordance with the 2015 Act, the amount of the adjustment is based on the percent increase between the CPI–U for the month of October preceding the date of the adjustment and the CPI–U for the October one year prior to the October immediately preceding the date of the adjustment. If there is no increase, there is no adjustment of civil penalties.

This interim final rule incorporates the initial adjustment and one annual adjustment, and applies those adjustments cumulatively to each of the two civil regulatory penalties identified herein.

A. Adjustments to Penalties Under the NEA's Program Fraud and Civil Remedies Act Regulations

For purposes of the initial adjustment under the 2015 Act, Congress last set or adjusted the amount of PFCRA civil penalties in 1986. Between October 1986 and October 2015, the CPI–U has increased by 215.628 percent. The post-adjustment penalty amount or range is obtained by multiplying the pre-adjustment penalty amount or range by the percent change in the CPI–U over the relevant time period, and rounding to the nearest dollar. Therefore, this post-adjustment maximum penalty under the PFCRA is $5,000 × 2.15628 = $10,781.40, which rounds to $10,781. The new, post-adjustment penalty less than 250 percent of the pre-adjustment penalty, so the limitation on the amount of the adjustment is not implicated. Therefore, the maximum penalty under the PFCRA for false claims or statements for purposes of the first adjustment will be $10,781.

This regulation also incorporates the subsequent required annual adjustment. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2015 and October 2016, the CPI–U increased by 101.636 percent. Therefore, the new post-adjustment maximum penalty under the PFCRA is $10,781 × 1.01636 = $10,957.38, which rounds to $10,957. The new, post-adjustment penalty is less than 250 percent of the pre-adjustment penalty, so the limitation on the amount of the adjustment is not implicated. Therefore, the maximum penalty under the PFCRA will be $10,957.

B. Adjustments to Penalties Under the NEA's Restrictions on Lobbying Regulations

For purposes of the initial adjustment under the 2015 Act, Congress last set or adjusted the amount of Restrictions on Lobbying civil penalties in 1989. Between October 1989 and October 2015, the CPI–U has increased by 189.361 percent. The post-adjustment penalty amount or range is obtained by multiplying the pre-adjustment penalty amount or range by the percent change in the CPI–U over the relevant time period, and rounding to the nearest dollar. Therefore, the post-adjustment minimum penalty under the law on Restrictions on Lobbying is $10,000 × 1.89361 = $18,936.10, which rounds to $18,936, and the post-adjustment maximum penalty under law on Restrictions on Lobbying is $100,000 × 1.89361 = $189,361. The new, post-adjustment penalties are less than 250 percent of the pre-adjustment penalties, so the limitation on the amount of the adjustment is not implicated. Therefore, the range of penalties under the law on Restrictions on Lobbying, for purposes of the first adjustment shall be between $18,936 and $189,361.

This regulation also incorporates the subsequent required annual adjustment. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2015 and October 2016, the CPI–U increased by 101.636 percent. Therefore, the post-adjustment minimum penalty under the law on Restrictions on Lobbying is $18,936 × 1.01636 = $19,245.79, which rounds to $19,246, and the post-adjustment maximum penalty under law on Restrictions on Lobbying is $189,361 × 1.01636 = $192,458.95, which rounds to $192,459. The new, post-adjustment penalties are less than 250 percent of the pre-adjustment penalties, so the limitation on the amount of the adjustment is not implicated. Therefore, the range of penalties under the law on Restrictions on Lobbying, for purposes of the first adjustment shall be between $19,246 and $192,459.

3. Subsequent Annual Adjustments

The 2015 Act also requires agencies to make annual adjustments to civil penalty amounts no later than January 15 of each year following the initial adjustment described above. For subsequent annual adjustments made in accordance with the 2015 Act, the amount of the adjustment will have the

[1] OMB Memoranda M–16–06 and M–17–11.

same basis as the annual adjustments previously described herein (the percent increase between the CPI–U for the month of October preceding the date of the adjustment and the CPI–U for the October one year prior to the October immediately preceding the date of the adjustment). If there is no increase, there is no adjustment of civil penalties. Therefore, if the NEA adjusts penalties in January 2018, the adjustment will be calculated based on the percent change between the CPI–U for October 2017 (the October immediately preceding the date of adjustment) and October 2016 (the October one year prior to October 2017). The NEA will publish the amount of these annual inflation adjustments in the **Federal Register** no later than January 15 of each year.

4. Compliance

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 (E.O. 12866) established a process for review of rules by the Office of Information and Regulatory Affairs, which is within the Office of Management and Budget (OMB). Only ''significant'' proposed and final rules are subject to review under this Executive Order. ''Significant,'' as used in E.O. 12866, means ''economically significant.'' It refers to rules with (1) an impact on the economy of $100 million; or that (2) were inconsistent or interfered with an action taken or planned by another agency; (3) materially altered the budgetary impact of entitlements, grants, user fees, or loan programs; or (4) raised novel legal or policy issues.

This interim final rule would not be a significant policy change and OMB has not reviewed this interim final rule under E.O. 12866. We have made the assessments required by E.O. 12866 and determined that this rulemaking: (1) Will not have an effect of $100 million or more on the economy; (2) will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (3) will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; and (5) does not raise novel legal or policy issues.

Federalism (Executive Order 13132)

This rulemaking does not have Federalism implications, as set forth in E.O. 13132. As used in this order, Federalism implications mean ''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.'' The NEA has determined that this rulemaking will not have Federalism implications within the meaning of E.O. 13132.

Civil Justice Reform (Executive Order 12988)

This Directive meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988. Specifically, this interim final rule is written in clear language designed to help reduce litigation.

Indian Tribal Governments (Executive Order 13175)

Under the criteria in E.O. 13175, we have evaluated this interim final rule and determined that it would have no potential effects on Federally recognized Indian Tribes.

Takings (Executive Order 12630)

Under the criteria in E.O. 12630, this rulemaking does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This rulemaking will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This rulemaking will not impose any ''information collection'' requirements under the Paperwork Reduction Act. Under the act, information collection means the obtaining or disclosure of facts or opinions by or for an agency by 10 or more nonfederal persons.

Unfunded Mandates Act of 1995 (Section 202, Pub. L. 104–4)

This rulemaking does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year.

National Environmental Policy Act of 1969 (5 U.S.C. 804)

The interim final rule will not have significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996 (Sec. 804, Pub. L. 104–121)

This interim final rule would not be a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This interim final rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, 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.

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible Web site. All information about the NEA required to be published in the **Federal Register** may be accessed at *www.arts.gov*. This Act also requires agencies to accept public comments on their rules ''by electronic means.'' See heading ''Public Participation'' for directions on electronic submission of public comments on this interim final rule.

Finally, the E-Government Act requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government Web site contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The Web site *https://www.regulations.gov* contains electronic dockets for the NEA's rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010 (5 U.S.C. 301)

Under this Act, the term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this rulemaking has been written in plain and clear language so that it can be used and understood by the public, the NEA has modeled the

language of this rule on the Federal Plain Language Guidelines.

Public Participation

The NEA has written this interim final rule in compliance with E.O. 13563 by ensuring its accessibility, consistency, simplicity of language, and overall comprehensibility. In addition, the public participation goals of this order are also satisfied by the NEA's participation in a process in which its views and information are made public to the extent feasible, and before any decisions are actually made. This will allow the public the opportunity to react to the comments, arguments, and information of others during the rulemaking process. The NEA initiates its participation in an open exchange by posting the regulation and its rulemaking docket on *https://www.regulations.gov.*

Finally, Section 2 of E.O. 13563 directs agencies, where feasible and appropriate, to seek the views of those who are likely to be affected by rulemaking. This provision emphasizes the importance of prior consultation with ''those who are likely to benefit from and those who are potentially subject to such rulemaking.'' One goal is to solicit ideas about alternatives, relevant costs and benefits (both quantitative and qualitative), and potential flexibilities. The NEA reaches out to interested and affected parties by soliciting comments.

List of Subjects in 45 CFR Parts 1149 and 1158

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Lobbying, Penalties.

For the reasons stated in the preamble, the NEA amends 45 CFR parts 1149 and 1158 as follows:

PART 1149—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 1. The authority citation for part 1149 is revised to read as follows:

Authority: 5 U.S.C. App. 8G(a)(2); 20 U.S.C. 959; 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

§ 1149.9 [Amended]

■ 2. Amend § 1149.9(a)(1) by removing ''$5,000'' and adding in its place ''$10,957''.

PART 1158—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1158 is revised to read as follows:

Authority: 20 U.S.C. 959; 28 U.S.C. 2461; 31 U.S.C. 1352.

§ 1158.400 [Amended]

■ 4. Amend § 1158.400(a) and (b) by:
■ a. Removing ''$10,000'' and adding in its place ''$19,246'' each place it appears.
■ b. Removing ''$100,000'' and adding in its place ''$192,459'' each place it appears.

Appendix A to Part 1158 [Amended]

■ 5. Amend appendix A to part 1158 by:
■ a. Removing ''$10,000'' and adding in its place ''$19,246'' each place it appears.
■ b. Removing ''$100,000'' and adding in its place ''$192,459'' each place it appears.

Dated: June 7, 2017.

Kathy N. Daum,

Director, Administrative Services Office.

[FR Doc. 2017–12071 Filed 6–14–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 161216999–7516–02]

RIN 0648–BG50

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary

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

ACTION: Final rule.

SUMMARY: NMFS, upon request from the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary), hereby issues regulations pursuant to the Marine Mammal Protection Act (MMPA) to govern the taking of marine mammals incidental to commercial fireworks displays permitted by the Sanctuary in California, over the course of five years (2017–2022). These regulations, which allow for the issuance of Letters of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and establish requirements pertaining to the monitoring and reporting of such taking.

DATES: As of June 15, 2017, the expiration date of the rule published at 77 FR 31537 on May 29, 2012, is extended from June 28, 2017, to July 3, 2022. This final rule is effective July 4, 2017.

ADDRESSES: A copy of MBNMS's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for This Regulatory Action

These regulations, promulgated under the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), establish a framework for authorizing the take of marine mammals incidental to the commercial fireworks displays in four regions within the MBNMS: Half Moon Bay, Santa Cruz/Soquel, Monterey Peninsula, and Cambria. We received an adequate and complete application from the MBNMS on October 18, 2016, requesting 5-year regulations and authorization to take, by Level B harassment, California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina richardii*) incidental to commercial fireworks displays permitted by the MBNMS. Please see *Background* below for definitions of harassment. The Sanctuary's current incidental take authorization regulations expire June 28, 2017. The regulations implemented by this final rule would be valid from July 4, 2017 through July 3, 2022.

Legal Authority for the Regulatory Action

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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 for up to five years if, after notice and public comment, the agency makes certain findings and issue regulations that set forth permissible methods of taking pursuant to that activity, as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the

implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this final rule containing the five-year regulations and for any subsequent Letters of Authorization (LOAs). As directed by this legal authority, this final rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Regulations

The following provides a summary of some of the major provisions within the rulemaking for MBNMS fireworks in the four display areas. We have determined that MBNMS's adherence to the planned mitigation, monitoring, and reporting measures listed below would achieve the least practicable adverse impact on the affected marine mammals. They include:

- Fireworks will not be authorized during the primary spring breeding season for marine wildlife (March 1 to June 30);
- Up to two shows per year across all four areas can be an hour in length but all other fireworks displays will not exceed thirty minutes in duration;
- Shows will occur across all four areas with an average frequency of less than or equal to once every two months;
- Delay of aerial ''salute'' effects until five minutes after the commencement of any fireworks display;
- Removal of all plastic and aluminum labels and wrappings from pyrotechnic devices prior to use and required recovery of all fireworks-related debris from the launch site and afflicted beaches; and
- Required monitoring and reporting of marine mammals at the fireworks site prior to and after each display.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States (U.S.) citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On October 18, 2016, NMFS received a complete application from the MBNMS requesting authorization to take, by Level B harassment, two species of marine mammals incidental to commercial fireworks displays conducted under sanctuary authorization permits issued by the MBNMS. On November 10, 2016, we published a notice of receipt of MBNMS's application in the **Federal Register** (81 FR 78993), and provided a 30-day comment period during which we requested public comments and information related to MBNMS's request. We did not receive any comments. On March 17, 2017, we published a notice of proposed rulemaking (81 FR 14184), and received 13 comment letters, which were considered in the development of the final rule and are available online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm*.

MBNMS requested authorization for the taking of small numbers of marine mammals incidental to permitting of commercial fireworks displays; such displays produce elevated levels of noise and light that may result in Level B harassment of pinnipeds hauled out in the area. NMFS has issued incidental take authorizations under section 101(a)(5)(A or D) of the MMPA to MBNMS for the specified activity since 2005. NMFS first issued an incidental harassment authorization (IHA) under section 101(a)(5)(D) of the MMPA to MBNMS on July 4, 2005 (70 FR 39235; July 7, 2005), and subsequently issued 5-year regulations governing the annual issuance of LOAs under section 101(a)(5)(A) of the MMPA (71 FR 40928; July 19, 2006). Upon expiration of those regulations, NMFS issued MBNMS an IHA (76 FR 29196; May 20, 2011), and subsequent 5-year regulations and LOA, which expire on June 28, 2017 (77 FR 31537; May 29, 2012). The instant regulations are valid for five years from July 4, 2017 through July 3, 2022.

Description of the Specified Activity

Overview

The MBNMS was designated as the ninth national marine sanctuary (NMS) in the United States on September 18, 1992. Managed by the Office of National Marine Sanctuaries (ONMS) within NOAA, the Sanctuary adjoins 240 nautical miles (nmi) of central California's outer coastline (overlaying 25 percent of state coastal waters), and encompasses 4,601 square nmi of ocean waters from mean high tide to an average of 26 nmi offshore between Rocky Point in Marin County and Cambria in San Luis Obispo County. The MBNMS has authorized fireworks displays over Sanctuary waters for many years as part of national and community celebrations (*e.g.,* Independence Day, municipal anniversaries) and to foster public use and enjoyment of the marine environment. In central California, marine venues are the preferred setting for fireworks in order to optimize public access and avoid the fire hazard associated with terrestrial display sites.

Sponsors of fireworks displays conducted in the MBNMS are required to obtain Sanctuary authorization prior to conducting such displays (see 15 CFR 922.132). Since the MBNMS began issuing permits for fireworks discharge in 1993, it has received a total of 102 requests for professional fireworks displays, the majority of which have been associated with large community events such as Independence Day and municipal festivals. MBNMS has permitted, on average, approximately 5 fireworks displays per year; however, only 2 to 4 displays were hosted annually between 2009 and 2015. However, economic conditions or other factors could result in more requests. Therefore, the MBNMS anticipates authorizing a maximum of 10 fireworks displays, annually, in 4 display areas along 276 mi (444 km) of coastline during the effective period of these regulations.

Per previous IHAs, regulations, and LOAs, the MBNMS has monitored

California sea lions and harbor seals at the four regions where fireworks displays are authorized. Based on these and other data combined with the MBNMS's estimated maximum number of annual fireworks displays, MBNMS requested authorization to incidentally harass up to 3,983 California sea lions and 570 harbor seals, annually.

Dates and Duration

The specified activity may occur from July 1 through February 28, annually, for the effective period of the regulations (July 4, 2017 through July 3, 2022). Each display will be limited to 30 minutes in duration with the exception of 2 events per year lasting up to 1 hour each. Events throughout the year will occur with an average frequency of less than or equal to once every two months within each of the four prescribed display areas. The MBNMS does not authorize fireworks from March 1 through June 30, annually, to avoid overlap with primary reproductive periods; therefore, no takes of marine mammals incidental to the specified activity would occur during this moratorium period.

Specific Geographic Region

Pyrotechnic displays within the sanctuary are conducted from a variety of coastal launch sites (*e.g.,* beaches, bluff tops, piers, offshore barges, golf courses). Authorized fireworks displays would be confined to four prescribed areas (with seven total sub-sites) within the sanctuary, while displays along the remaining 95 percent of sanctuary coastline would be prohibited. These sites were approved for fireworks events based on their proximity to urban areas and pre-existing high human use patterns, seasonal considerations such as the abundance and distribution of marine wildlife, and the acclimation of wildlife to human activities and elevated ambient noise levels in the area.

The four display areas are located, from north to south, at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula (Pacific Grove/North and South Monterey), and Cambria (Santa Rosa Creek) (see Figure 1 in MBNMS's application). The number of displays is not expected to exceed 10 total events per year across all four areas. Detailed descriptions of each display area are available in the 2006 *Environmental Assessment of the Issuance of a Small Take Regulations and LOAs and the Issuance of National Marine Sanctuary Authorizations for Coastal Commercial Fireworks Displays within Monterey Bay National Marine Sanctuary, CA* (available online at *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm*). Our notice of proposed rulemaking (82 FR 14184; March 17, 2017) gave a detailed description of each of the display areas. We refer the reader to that document instead of repeating it here.

Comments and Responses

We published a notice of proposed rulemaking in the **Federal Register** on March 17, 2017 (81 FR 14184) and requested comments and information from the public. During the 30-day comment period, we received one letter from the Marine Mammal Commission (Commission); one letter representing Turtle Island Restoration Network, Ocean Defenders Alliance, and Friends of Earth (Three NGOs); and 11 comments from private citizens. The Commission concurred with NMFS's findings and recommended that NMFS issue the final rule subject to the inclusion of the proposed mitigation, monitoring, and reporting measures.

The comments and our responses are provided here, and the comments have been posted online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm*. Please see the comment letters for the full rationale behind the recommendations we respond to below.

Comment 1: A private citizen expressed concern regarding potential disruption of the natural environment and pollution resulting from a fireworks display.

Response: If appropriate, NMFS authorizes take of marine mammals incidental to specified activities, in this case permitting of fireworks displays. Our analysis included the effects this activity may have on the marine mammals' environment and concluded that effects to the environment would be negligible. Any pollution created by the fireworks displays will be removed through clean-up efforts for up to 2 days following the fireworks display.

Comment 2: A private citizen expressed opposition to any fireworks displays that may cause harm to marine mammals within the MBNMS.

Response: NMFS has a statutory obligation to ensure that the authorization of marine mammal take incidental to specified activities (in this case, fireworks displays) effects the least practicable adverse impact on affected marine mammal species and stocks. NMFS has determined that with the included mitigation measures, the effects to marine mammals will satisfy this requirement.

Comment 3: A private citizen expressed opposition to the authorization of take for fireworks displays because of the impacts to marine mammals and the potential for the seals and sea lions to not return to the haul out, which would impact the humans who go to the MBNMS to see these animals.

Response: NMFS is required to assess the potential impacts to marine mammals pursuant to the requirements of the MMPA as well as to the broader human environment (as a result of our action of issuing a final rule and subsequent Letter of Authorization), pursuant to the requirements of the National Environmental Policy Act. NMFS concluded that even though pinnipeds may temporarily leave the haul out, the animals are likely to return after the fireworks display has ended, and will not be displaced to another area.

Comment 4: A private citizen expressed support for NMFS's action to authorize take of marine mammals incidental to permitting of fireworks displays because they believe the effects of the fireworks displays are harmful to the marine mammals and the authorization would reduce these impacts.

Response: NMFS agrees that, with the included mitigation measures and monitoring and reporting requirements, the MBNMS will reduce the impact of fireworks displays on individual marine mammals and marine mammal stocks and will effect the least practicable adverse impact.

Comment 5: Two private citizens suggest moving the fireworks display away from the water to reduce impacts to marine mammals.

Response: In central California, marine venues are the preferred setting for fireworks displays in order to optimize public access and avoid the fire hazard associated with terrestrial display sites. From 2017–2022, the permitted fireworks displays would be confined to four prescribed areas, which were approved for fireworks events based on their proximity to urban areas and pre-existing high human use patterns, seasonal considerations such as the abundance and distribution of marine wildlife, and the acclimation of wildlife to human activities and elevated ambient noise levels in the area. NMFS determined that the effects of the fireworks displays to marine mammals and their habitat would result in no greater than a negligible impact to the affected species or stocks, as required by the MMPA.

Comment 6: A private citizen mentioned that fireworks have not occurred in Monterey Bay for many

years and the implementation of the rule would be unnecessary.

Response: The Sanctuary has indicated that economic conditions or other factors could result in more requests for fireworks displays in the future. If fireworks displays were to occur in the authorized locations during the authorized dates, the included mitigation, monitoring, and reporting measures would minimize the effects of the displays to the level of least practicable adverse impact to marine mammals, as required by the MMPA.

Comment 7: Two private citizens asked clarifying questions about the impacts of ''taking'' a marine mammal.

Response: The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

NMFS determined that the fireworks displays could be reasonably anticipated to result in the ''take'' of marine mammals, but that any such take will be limited to Level B harassment in the form of short-term startle responses and localized behavioral changes. NMFS also determined that implementation of the required mitigation measures will effect the least practicable adverse impact on affected marine mammal species and stocks.

Comment 8: One private citizen asked a clarifying question about what happens if there is more than negligible impact, and what alternative solutions are there to protect the marine mammals without compromising our traditions and celebrations.

Response: NMFS determined that the authorized take of marine mammals incidental to fireworks displays will not have more than a negligible impact on any affected marine mammal species or stock. If NMFS determines that the activity were resulting in greater than negligible impacts, any issued authorization may be withdrawn or suspended, as appropriate.

NMFS has included mitigation measures to reduce the impact of the activity on marine mammals, including limiting the number of fireworks displays and the areas in which they may occur within the MBNMS. NMFS believes this reduces the impact to marine mammals and their habitat to the least practicable adverse impact.

Comment 9: Two private citizens expressed concern about the effects of the fireworks display on newborn, young, or pregnant female seals due to the timing of pupping and molting.

Response: Harbor seal pupping season generally occurs between March and April, and pups are weaned within one month. The MBNMS does not permit fireworks displays from March 1 through June 30 specifically to avoid overlap with primary reproductive periods and to minimize impacts on harbor seal pups.

Comment 10: A private citizen asked for a description of the signs/observations of auditory threshold shift.

Response: Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Generally, the onset of TS is not readily detectable by a visual observer, but must be detected in a laboratory setting, *e.g.,* through collection of behavioral response or auditory evoked potential data. Onset of TTS or PTS in marine mammals as a result of sound exposure varies; however, given the low source levels of fireworks displays, and the onset acoustic thresholds for pinnipeds (NMFS 2016), NMFS determined that TTS and PTS is not likely to occur due to fireworks displays.

Comment 11: A private citizen expressed opposition to relocating whales to captivity for a fireworks display.

Response: In this authorization, NMFS is authorizing take of marine mammals incidental to fireworks displays. NMFS is not authorizing the relocation of any marine mammals, nor is it authorizing any activity related to captive marine mammals, nor are any such activities proposed.

Comment 12: A private citizen is supportive of the fireworks being highly regulated so that we do not harm wildlife, but believes that if any animals are present, the fireworks display should not occur.

Response: The MMPA requires that the take of small numbers of marine mammals incidental to specified activities be allowed, if certain findings can be made and appropriate mitigation measures and monitoring and reporting requirements are prescribed. NMFS's analysis of the likely effects of the fireworks displays on the affected marine mammal stocks concluded that the effects would be negligible and that implementation of the required mitigation measures would effect the least practicable adverse impact. Therefore, it is appropriate to authorize the take of marine mammals incidental to the specified activities.

Comment 13: Three NGOs expressed concern that issuing an incidental take authorization within the MBNMS undermines the protective goal of the sanctuary.

Response: The application was submitted by the MBNMS; therefore, the MBNMS believes that permitting of commercial fireworks displays, subject to restrictions described herein, and the issuance of an incidental take authorization for this activity is consistent with the Sanctuary's mission and goals.

Comment 14: Three NGOs state that past fireworks display contracts did not account for trash left by spectators of the fireworks shows and that litter should be classified as Level B harassment.

Response: NMFS analyzed the effects of litter on marine mammals and their habitat and concluded that they are temporary and negligible. In accordance with permits issued by the MBNMS, the entity conducting fireworks displays is required to clean area beaches for up to 2 days following the display. These post-fireworks clean-ups include trash created by the fireworks themselves, as well as trash that may have been created or left by spectators. Therefore, NMFS believes that these impacts will not adversely affect marine mammals or their habitat.

Comment 15: Three NGOs commented that the large crowds that view the fireworks (on land or in vessels) should be considered indirect harassment that may affect marine mammals including pinnipeds and cetaceans.

Response: NMFS's issuance of an LOA to MBNMS is related to the specified activity described by MBNMS in their authorization request (*i.e.,* permitting of fireworks displays), not to other associated impacts that are not permitted by the Sanctuary (*e.g.,* increased human presence). However, NMFS believes that the effects of the increased noise and light associated with the fireworks displays would cause harassment likely to subsume any potential effects of the presence of people on shore.

Comment 16: Three NGOs stated that the 2006 EA is insufficient for activities from 2017 and 2022 and that permits

should not be granted unless it is scientifically determined that other marine mammals occupying the area would not be negatively affected.

Response: NMFS determined that the activity proposed (issuance of an incidental take authorization (ITA)) is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement based on NOAA's Administrative Order 216–6A and the associated companion manual, entitled ''Policy and Procedures for Compliance with the National Environmental Protection Act and Related Authorities'' (*http://www.nepa.noaa.gov/docs/NOAA-NAO-216-6A-Companion-Manual-01132017.pdf*). Specifically, NMFS determined that the proposed activity met the criteria for CE B4 (Issuance of an incidental take authorization (ITA) under section 101(a)(5)(A) of the MMPA for the incidental, but not intentional, take by harassment of marine mammals during specified activities and for which no serious injury or mortality is anticipated) after consideration of the potential effects of the proposed activity as well as evaluation of any extraordinary circumstances. One of the extraordinary circumstances states that the action (issuance of the ITA) cannot result in an adverse effect that is more than negligible or discountable on species protected by National Marine Sanctuaries Act (NMSA). NMFS believes that because the fireworks displays are limited in duration, would not occur on consecutive days at any fireworks site in the sanctuary, and would be subject to mitigation measures proposed by MBNMS—and implemented as a component of NMFS' incidental take authorizations since 2005—potential impacts would be further reduced. Additionally, no take by injury, serious injury, or mortality is anticipated, and takes by Level B harassment would be at the lowest level practicable due to incorporation of the mitigation measures described previously in this document.

Comment 17: Three NGOs expressed concern about the effects of the fireworks activities on sea otters.

Response: NMFS and USFWS have joint jurisdiction under the MMPA. NMFS's trust species include whales, dolphins, porpoises, seals, and sea lions while the USFWS's trust species include sea otters, walrus, manatees, dugongs, and polar bears. Because sea otters are not under the jurisdiction of NMFS, it would not be appropriate for NMFS to consider potential impacts to the species in making a decision pursuant to the requirements of the MMPA. The MBNMS addressed impacts to sea otters in their application. The USFWS found that MBNMS would be unlikely to take any southern sea otters, and therefore issued neither an incidental take statement under the ESA nor an IHA.

Detailed Description of the Specified Activity

Professional pyrotechnic devices used in fireworks displays can be grouped into three general categories: Aerial shells (paper and cardboard spheres or cylinders ranging from 2–12 inch (in) (5–30 centimeter (cm)) in diameter and filled with incendiary materials), low-level comet and multi-shot devices similar to over-the-counter fireworks (*e.g.,* roman candles), and ground-mounted set piece displays that are mostly static in nature. Each display is unique according to the type and number of shells, the pace of the show, the length of the show, the acoustic qualities of the display site, and even the weather and time of day. An average large display will last 20 minutes and include 700 aerial shells and 750 low-level effects. An average smaller display lasts approximately seven minutes and includes 300 aerial shells and 550 low-level effects. A detailed description of these devices was included in our notice of proposed rulemaking (82 FR 14184; March 17, 2017). We refer the reader to that document rather than repeating it here.

Description of Marine Mammals in the Area of the Specified Activity

In our notice of proposed rulemaking (81 FR 14184; March 17, 2017), we reviewed MBNMS's species descriptions—which summarized available information regarding status, trends, and distribution of the potentially affected species—for accuracy and completeness and referred readers to Sections 3 and 4 of MBNMS's application, as well as to NMFS's Stock Assessment Reports (SARs; *www.nmfs.noaa.gov/pr/sars/*). We also provided information related to all species with expected potential for take within the sanctuary where fireworks displays are planned to occur, summarizing information related to the population or stock. Readers should refer to the notice of proposed rulemaking (81 FR 14184; March 17, 2017) for that information, which is not reprinted here.

The only marine mammals anticipated to be affected by the specified activities and for which incidental take, by Level B harassment only, is authorized are harbor seals and California sea lions and therefore they are the only marine mammals discussed further in this document.

Potential Effects of the Specific Activity on Marine Mammals and Their Habitat

A detailed description of the specified activity on marine mammals was provided in our notice of proposed rulemaking (81 FR 14184; March 17, 2017) and is not repeated here. No changes have been made to the specified activities described therein.

NMFS anticipates that any impacts to species or stocks of marine mammals from fireworks displays within MBNMS will be limited to short-term startle responses and localized behavioral changes. Minor and brief responses, such as short-duration startle or alert reactions are not expected to have effects on annual rates of recruitment or survival, and will not cause injury or mortality to marine mammals. As such, we have determined that the anticipated effects of the specified activity on marine mammals and their habitat are negligible.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

All anticipated takes would be by Level B harassment, involving temporary changes in behavior such as flushing and cessation of vocalization. Serious injury and mortality are not expected. The risk of injury is considered negligible due to the nature of the specified activity and mitigation measures; therefore, authorization to take marine mammals by Level A harassment was not requested by the MBNMS and such takes will not be authorized by NMFS.

The MBNMS anticipates permitting up to 10 fireworks events annually. Based on previous monitoring data and unpublished aerial survey data from the NMFS Southwest Fisheries Science Center (Lowry 2001, 2012, 2013), the maximum count of marine mammals, by species, was used for each site to identify potential take numbers; therefore, the amount of take is considered conservative. In total, 10 fireworks displays could take up to

3,983 California sea lions and 570 harbor seals, annually. The number of California sea lion takes increased from the proposed rule due to updating the maximum number of observed sea lions at the Santa Cruz/Soquel location from 190 to 363.

TABLE 1—ESTIMATED POTENTIAL INCIDENTAL TAKE PER YEAR BY DISPLAY AREA BASED ON DATA COLLECTED DURING PREVIOUS MONITORING EVENTS

Display location	Time of year	Estimated maximum number of events per year	Maximum number of animals present per event (total)	
			California sea lions	Harbor seals
Half Moon Bay	July	1	100	65
Santa Cruz/Soquel	October	1	*363	5
Santa Cruz/Seacliff State Beach	May	1	5	50
North Monterey Bay	July	1	190	50
South Monterey Bay	January	1	800	60
South Monterey Bay	July	1	1,500	60
South Monterey Bay	variable	1	800	60
Pacific Grove	July	1	150	100
Cambria (Public)	July	1	50	60
Cambria (Private)	July	1	25	60
Total		10	*3,983	570

*The number of California sea lion takes increased from the proposed rule due to updating the number of observed sea lions at the Santa Cruz/Soquel location from 190 to 363.

Mitigation

In order to issue an ITA under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses. NMFS's implementing regulations require applicants for ITAs to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

The MBNMS and NMFS worked to craft a set of mitigation measures designed to minimize the impacts of fireworks displays on the marine environment, as well as to outline the locations, frequency, and conditions under which the MBNMS would authorize marine fireworks displays. These mitigation measures, which were successfully implemented under previous NMFS-issued ITAs, include four broad approaches for managing fireworks displays. Note previous ITAs allowed for take incidental to 20 fireworks displays per year while this rule anticipates that only 10 firework displays would occur annually.

- Establish a sanctuary-wide seasonal prohibition to safeguard pinniped reproductive periods. Fireworks events would not be authorized between March 1 and June 30 of any year when the primary reproductive season for pinnipeds occurs.
- Establish four conditional display areas and prohibit displays along the remaining 95 percent of sanctuary coastal areas. Display areas are located adjacent to urban centers where wildlife is often subject to frequent human disturbances. Remote areas and areas where professional fireworks have not traditionally been conducted would not be considered for fireworks display approval. The conditional display areas (described in our notice of proposed rulemaking (81 FR 14184; March 17, 2017)) are located at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula, and Cambria (Santa Rosa Creek).
- Displays would be authorized at an average frequency equal to or less than one every 2 months in each area with a total maximum of 10 displays per year across all four areas.
- Fireworks displays would not exceed 30 minutes with the exception of two longer displays per year across all four areas that will not exceed 1 hour.
- Implement a ramp-up period, wherein salutes are not allowed in the first five minutes of the display;
- Conduct a post-show debris cleanup for up to two days whereby all debris from the event is removed.

These mitigation measures are designed to prevent an incremental proliferation of fireworks displays and disturbance throughout the sanctuary and minimize area of impact by confining displays to primary traditional use areas. They also effectively remove fireworks impacts from 95 percent of the Sanctuary's coastal areas, place an annual quota and multiple conditions on the displays authorized within the remaining five percent of the coast, and impose a sanctuary-wide seasonal prohibition on all fireworks displays. These measures were developed to assure the least practicable adverse impact to marine mammals and their habitat.

NMFS has carefully evaluated MBNMS's mitigation measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measures for applicant implementation.

Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable adverse impact on marine mammals species or stocks and their habitat, paying

particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the planned action area.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to fireworks that we associate with specific adverse effects, such as behavioral harassment;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

The MBNMS will conduct a pre-event and post-event census of local marine mammal populations within the fireworks detonation area, including a report identifying if any injured or dead marine mammals are observed during the post-event census. For the pre-event census, counts should be made as close to the start of the display as possible, with at least one count the day before the display and, if possible, another within 30 minutes of the fireworks display. For the post-event census, counts should occur in conjunction with beach clean-ups the day following the fireworks display. NMFS has worked with the MBNMS to develop an observer reporting form so that data are standardized across events. Reported data include number of individuals, by species, observed prior to display; behavioral observations (if observed during display); number of individuals, by species, observed after the fireworks event; any observed injured or dead animal; and fireworks event details (*e.g.,* start and end time).

The MBNMS must submit a draft annual monitoring report to NMFS within 60 days after the conclusion of the calendar year. MBNMS must submit a final annual monitoring report to NMFS within 30 days after receiving comments from NMFS on the draft report. If NMFS has no comments, the draft report will be considered to be the final report. In addition, the MBNMS will continue to make its information available to other marine mammal researchers upon request.

Summary of Previous Monitoring

A detailed description of MBNMS's previous monitoring was provided in our notice of proposed rulemaking (81 FR 14184; March 17, 2017) and is not repeated here. No changes have been made to the specified activities described therein.

Changes to the Proposed Regulations

As a result of clarifying discussions with MBNMS, we made certain changes to the proposed regulations as described here. These changes are considered minor and do not affect any of our preliminary determinations.

NMFS updated the monitoring requirements to state that pre-event census surveys will occur the day before the fireworks display and, if possible, within 30 minutes of the fireworks in order to get a realistic number of marine mammals that may be affected by the authorized activity (*e.g.,* fireworks noise and lights).

NMFS updated the take estimate for California sea lions from 3,810 to 3,983 because the maximum number of sea lion observations at the Santa Cruz/Soquel area were 363 animals, not 190 animals as previously noted in the proposed rule.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering the authorized number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration, etc.), as well as effects on habitat, the status of the affected stocks, and the likely effectiveness of the mitigation. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels). In making a negligible impact determination, NMFS considers the following:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited);

(3) The context in which the takes occur (*i.e.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

Past monitoring by the MBNMS has identified at most only a short-term

behavioral disturbance of animals by fireworks displays, with the causes of disturbance being sound effects and light flashes from exploding fireworks. Any takes would be limited to the temporary incidental harassment of California sea lions and harbor seals due to evacuation of usual and accustomed haul-out sites, for as little as 15 minutes and as much as 15 hours, following any fireworks event. Most animals depart affected haul-out areas at the beginning of the display and return to previous levels of abundance within 4 to 15 hours following the event.

NMFS has determined that the fireworks displays, as described in this document and in MBNMS's application, will result in no more than Level B harassment of small numbers of California sea lions and harbor seals. The effects of coastal fireworks displays are typically limited to short term and localized changes in behavior, including temporary departures from haul-outs to avoid the sight and sound of commercial fireworks. Fireworks displays are limited in duration by MBNMS authorization requirements and would not occur on consecutive days at any fireworks site in the sanctuary. The mitigation measures planned by MBNMS—and implemented as a component of NMFS's incidental take authorizations since 2005—would further reduce potential impacts. As described previously, these measures ensure that authorized fireworks displays avoid times of importance for breeding, as well as limiting displays to 5 percent of sanctuary coastline that is already heavily used by humans, and generally limiting the overall amount and intensity of activity. No take by injury, serious injury, or mortality is anticipated, and takes by Level B harassment would be at the lowest level practicable due to incorporation of the mitigation measures described previously in this document.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(A) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of the relevant species or stock size in our determination of whether an authorization is limited to small numbers of marine mammals.

Here, NMFS authorizes the take of up to 3,983 California sea lion and 570 harbor seal, annually, incidental to fireworks displays permitted by the MBNMS. As described in the *Description of Marine Mammals in the Area of the Specified Activity* section, the population estimate for the California sea lions is 296,750 individuals while the harbor seal population estimate is 30,968 individuals. Therefore, the taking represents 1.3 and 1.8 percent of each stock, respectively.

Based on the analysis of the planned activity contained herein (including the planned mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Adaptive Management

The regulations governing the take of marine mammals incidental to commercial fireworks authorized by the MBNMS would contain an adaptive management component.

The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the MBNMS regarding practicability), on an annual or biennial basis, if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The MBNMS's monitoring program (see *Monitoring and Reporting*) would be managed adaptively. Changes to the proposed monitoring program may be adopted if they are reasonably likely to better accomplish the MMPA monitoring goals described previously or may better answer the specific questions associated with the MBNMS's monitoring plan.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Endangered Species Act (ESA)

The MBNMS has not requested, nor is NMFS proposing to authorize, take of marine mammals listed as threatened or endangered under the ESA in these regulations. Therefore, we have determined that section 7 consultation under the ESA is not required.

National Environmental Policy Act

Issuance of an MMPA authorization requires compliance with NEPA. NMFS will pursue categorical exclusion (CE) status under NEPA for this action. As such, we have determined the issuance of the proposed IHA is consistent with categories of activities identified in CE B4 of the Companion Manual for NAO 216–6A and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216–6A that would preclude this categorical exclusion. NMFS has prepared a CE memorandum for the record.

Classification

The Office of Management and Budget (OMB) has determined that this final rule is not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a

penalty for failure to comply with a collection of information (COI) subject to the requirements of the Paperwork Reduction Act (PRA) unless that COI displays a currently valid OMB control number. This final rule does not contain a COI requirement subject to the provisions of the PRA because the applicant is a Federal agency.

The Assistant Administrator for Fisheries has determined that there is a sufficient basis under the Administrative Procedure Act (APA) to waive the 30-day delay in the effective date of the measures contained in the final rule. Section 553 of the APA provides that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date with certain exceptions, including (1) for a substantive rule that relieves a restriction or (2) when the agency finds and provides good cause for foregoing delayed effectiveness. 5 U.S.C. 553(d)(1), (d)(3). Here, the issuance of regulations under section 101(a)(5)(A) of the MMPA is a substantive action that relieves the restriction on MBNMS' taking of marine mammals incidental to commercial fireworks displays. In addition, good cause exists for waiving the delay in effective date because such a delay would result in a suspension of planned Independence Day fireworks displays, thereby disrupting community traditions that have great societal and economic importance, which would be contrary to the public interest. Finally, the MBNMS has informed NMFS that it does not require 30 days to prepare for implementation of the regulations and requests that this final rule take effect on or before July 4, 2017. For these reasons, the subject regulations will be made immediately effective upon publication.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: June 8, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set forth in the preamble, NMFS amends 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Revise subpart B is to read as follows:

Subpart B—Taking of Marine Mammals Incidental to Commercial Fireworks Displays

Sec.

217.11 Specified activity and specified geographical region.
217.12 Effective dates.
217.13 Permissible methods of taking.
217.14 Prohibitions.
217.15 Mitigation requirements.
217.16 Requirements for monitoring and reporting.
217.17 Letters of Authorization.
217.18 Renewals and modifications of Letters of Authorization.

Subpart B—Taking of Marine Mammals Incidental to Commercial Fireworks Displays

§ 217.11 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the Monterey Bay National Marine Sanctuary (MBNMS) and those persons it authorizes to display fireworks within the MBNMS for the taking of marine mammals that occurs in the area described in paragraph (b) of this section and that occurs incidental to authorization of commercial fireworks displays.

(b) The taking of marine mammals by MBNMS may be authorized in a Letter of Authorization (LOA) only if it occurs in the MBNMS.

§ 217.12 Effective dates.

Regulations in this subpart are effective from July 4, 2017, through July 3, 2022.

§ 217.13 Permissible methods of taking.

(a) Under LOAs issued pursuant to § 216.106 of this chapter and § 217.17, the Holder of the LOA (hereinafter ''MBNMS'') may incidentally, but not intentionally, take California sea lions (*Eumatopias jubatus*) and harbor seals (*Phoca vitulina*) within the area described in § 217.11(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) [Reserved]

§ 217.14 Prohibitions.

Notwithstanding takings contemplated in § 217.11 and authorized by an LOA issued under § 216.106 of this chapter and § 217.17, no person in connection with the activities described in § 217.11 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under § 216.106 of this chapter and § 217.17;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs other than by incidental, unintentional Level B harassment;

(d) Take a marine mammal specified in such LOAs if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

§ 217.15 Mitigation requirements.

(a) When conducting the activities identified in § 217.11(a), the mitigation measures contained in any LOA issued under § 216.106 of this chapter and § 217.17 must be implemented. These mitigation measures include but are not limited to:

(1) Limiting the location of the authorized fireworks displays to the four specifically designated areas at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Breakwater, and Cambria (Santa Rosa Creek);

(2) Limiting the frequency of authorized fireworks displays to no more than an average frequency of less than or equal to once every two months in each of the four prescribed areas;

(3) Limiting the duration of authorized individual fireworks displays to no longer than 30 minutes each, with the exception of two longer shows per year across all four areas not to exceed 1 hour;

(4) Prohibiting fireworks displays at MBNMS between March 1 and June 30 of any year; and

(5) Continuing to implement authorization requirements and general and special restrictions for each event, as determined by MBNMS. Standard requirements include, but are not limited to, the use of a ramp-up period, wherein salutes are not allowed in the first five minutes of the display; the removal of plastic and aluminum labels and wrappings from fireworks; and post-show reporting and cleanup. MBNMS shall continue to assess displays and restrict the number of aerial salute effects on a case-by-case basis, and shall implement general and special restrictions unique to each fireworks event as necessary.

(b) [Reserved]

§ 217.16 Requirements for monitoring and reporting.

(a) MBNMS is responsible for ensuring that all monitoring required

under an LOA is conducted appropriately, including, but not limited to:

(1) Counts of pinnipeds in the impact area prior to and after all displays. For the pre-event census, counts should be made as close to the start of the display as possible, with at least one conducted the day before the display and, if possible, another within 30 minutes of the fireworks display. For the post-census, counts should occur in conjunction with beach clean-ups the day following the fireworks display; and

(2) Reporting to NMFS of all marine mammal injury, serious injury, or mortality encountered during debris cleanup the morning after each fireworks display.

(b) Unless specified otherwise in the LOA, MBNMS must submit a draft annual monitoring report to the Director, Office of Protected Resources, NMFS, no later than 60 days after the conclusion of each calendar year. This report must contain:

(1) An estimate of the number of marine mammals disturbed by the authorized activities; and

(2) Results of the monitoring required in paragraph (a) of this section, and any additional information required by the LOA. A final annual monitoring report must be submitted to NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final annual monitoring report.

(c) A draft comprehensive monitoring report on all marine mammal monitoring conducted during the period of these regulations must be submitted to the Director, Office of Protected Resources, NMFS at least 120 days prior to expiration of these regulations. A final comprehensive monitoring report must be submitted to the NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final comprehensive monitoring report.

§ 217.17 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the MBNMS must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the MBNMS must apply for and obtain a modification of the LOA as described in § 217.18.

(d) The LOA shall set forth:

(1) The number of marine mammals, by species, authorized to be taken;

(2) Permissible methods of incidental taking;

(3) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(4) Requirements for monitoring and reporting.

(e) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(f) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.18 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 217.17 for the activity identified in § 217.11(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations in this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 217.106 and 217.17 for the activity identified in § 217.11(a) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with MBNMS regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from the MBNMS's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in an LOA issued pursuant to § 216.106 of this chapter and § 217.17, an LOA may be modified without prior notice or opportunity for public comment. The Notice would be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2017–12243 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 114
Thursday, June 15, 2017

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–2016–0451; Directorate Identifier 2013–NM–253–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: We are revising an earlier notice of proposed rulemaking (NPRM) to supersede Airworthiness Directive (AD) 2004–23–20. AD 2004–23–20 applies to certain Airbus Model A300 B2–1A, A300 B2–1C, A300 B2K–3C, A300 B2–203, A300 B4–2C, A300 B4–103, and A300 B4–203 airplanes; and Model A300 B4–601, A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R and A300 C4–605R Variant F airplanes. This action revises the NPRM by reducing certain compliance times, among other changes. We are proposing this airworthiness directive (AD) to address the unsafe condition on these products. Since these actions impose an additional burden over those proposed in the NPRM we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: The comment period for the NPRM published in the **Federal Register** on February 1, 2016 (81 FR 5056), is reopened.

We must receive comments on this SNPRM by July 31, 2017.

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

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

For service information identified in this SNPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2016–0451; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this SNPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (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 Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–0451; Directorate Identifier 2013–NM–253–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this SNPRM. We will consider all comments received by the closing date and may amend this SNPRM 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 SNPRM.

Discussion

On November 10, 2004, we issued AD 2004–23–20, Amendment 39–13875 (69 FR 68779, November 26, 2004) (''AD 2004–23–20''). AD 2004–23–20 requires actions intended to address an unsafe condition on certain Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes; and Model A300 B4–601, A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R and A300 C4–605R Variant F airplanes.

We issued an NPRM to amend 14 CFR part 39 by adding an AD to supersede AD 2004–23–20 that would apply to certain Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes; and Model A300 B4–601, A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R and A300 C4–605R Variant F airplanes. The NPRM published in the **Federal Register** on February 1, 2016 (81 FR 5056) (''the NPRM''). The NPRM was prompted by a report indicating that the material used to manufacture the upper frame feet was changed and negatively affected the fatigue life of the frame feet. The NPRM proposed to reduce the compliance times for the initial inspection and the inspection intervals. The NPRM also proposed to expand the applicability and require an additional repair on certain airplanes that have been modified.

Actions Since the NPRM Was Issued

Since we issued the NPRM, we have determined the compliance times for the proposed modification must be reduced and an additional modification must be done. In addition, we have determined that the repetitive inspections are no longer necessary. Therefore, certain requirements identified as ''retained'' in the proposed AD (in the NPRM) have been removed from this proposed AD.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0249, dated December 14, 2016; corrected January 10, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''); to correct an unsafe condition for all Airbus Model A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R, A300 F4–622R, and A300 C4–605R Variant F airplanes. The MCAI states:

> During an inspection in accordance with Airworthiness Limitation Item (ALI) 53–15–54 on an A300–600 aeroplane, Frames (FR) 43, FR44, FR45 and FR46 were found cracked between stringer (STGR) 24 and STGR30 on the aeroplane right hand side. FR45 was also found cracked on the aeroplane left hand side.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the fuselage.
>
> To address this potential unsafe condition and improve the fatigue life of the upper frame feet fittings, Airbus issued Service Bulletin (SB) A300–53–6125 to provide instructions for expansion of the most sensitive fastener holes between FR41 and FR46. DGAC [Direction Générale de l'Aviation Civile] France issued AD F–2004–002 (EASA approval 2003–2108) [which corresponds to FAA AD 2004–23–20] to require the structural modification defined in SB A300–53–6125 Revision 03 (Airbus modification 12168).
>
> [DGAC] AD F–2004–002 was subsequently superseded by EASA AD 2013–0295 to amend the inspection programme in this area as provided in SB A300–53–6122 (which is now obsolete and replaced by ALI task 531558, published in the [Airworthiness Limitation Section] ALS Part 2 Revision 01 dated 07 August 2015).
>
> Since EASA AD 2013–0295 was issued, a new investigation was conducted in the frame of the Widespread Fatigue Damage study. Airbus revised the thresholds for the accomplishment of the instructions defined in SB A300–53–6125 and issued SB A300–53–6178 to provide modification instructions to improve the fatigue life of upper frame feet fittings on aeroplane on which Airbus modification (mod) 12168 or Airbus SB A300–53–6125 was embodied.
>
> For the reason described above, this [EASA] AD retains some requirements of EASA AD 2013–0295, which is superseded, and requires modification of the upper frame feet fittings from FR41 to FR46 [repetitive inspections are not retained].
>
> This [EASA] AD is republished to correct a typographical error in the compliance time * * *.

We have also removed Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes from the applicability of this proposed AD. We have issued AD 2017–05–01, Amendment 39–18811 (82 FR 12401, March 3, 2017), which addresses the identified unsafe condition on all Model A300 series airplanes.

In addition, we have removed Model A300 B4–601 airplanes from the applicability of this proposed AD. The airplane manufacturer stated that all serial numbers for this airplane model have been removed from service. Also, we have added Model A300 F4–622R airplanes to the applicability of this proposed AD to correspond with the applicability in the MCAI.

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–2016–0451.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A300–53–6125, Revision 04, dated March 17, 2015; and Service Bulletin A300–53–6178, dated March 17, 2015. The service information describes procedures for the modification of certain upper frame feet fittings. These documents are distinct since they apply to airplanes in different configurations.

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

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comments received.

Request To Specify That Reporting Is Optional

FedEx requested that the reporting action specified in Airbus Service Bulletin A300–53–6122 be identified as an optional action in the NPRM. The commenter stated that the NPRM does not include a statement that the reporting requirements specified in Airbus Service Bulletin A300–53–6122 are not required by the NPRM. The commenter stated that Airbus has received these reports in the past and has not provided statistics or benefits to operators.

We agree with the commenter that reporting should not be required. All references to Airbus Service Bulletin A300–53–6122 have been omitted from this proposed AD. Since the NPRM was issued, Airbus has included the inspections specified in Airbus Service Bulletin A300–53–6122 in appropriate airworthiness limitations. Since this proposed AD does not include any references to Airbus Service Bulletin A300–53–6122, we have not revised this proposed AD in regard to this issue.

Request To Extend the Grace Period in Paragraph (n)(1) of the Proposed AD

FedEx requested that the grace period in paragraph (n)(1) of the proposed AD (in the NPRM) be extended from 1,000 flight cycles to 2,000 flight cycles. The commenter noted that this would permit scheduling this inspection and modification at the next major maintenance check and would not impose any additional scheduling burden on operators. The commenter stated that this would only affect seven airplanes in its fleet that are currently awaiting the initial threshold for the inspection. The commenter also mentioned that its experience to date has not shown wide spread fatigue cracking in this area under the existing 15,000-flight-cycle threshold.

As stated previously, certain inspections, including those specified in paragraph (m)(1) of the proposed AD (in the NPRM), are not included in this proposed AD. Therefore, it is not necessary to extend the grace period for the initial rotating probe inspection (which corresponds to paragraph (n)(1) of the proposed AD (in the NPRM)). We have not changed this proposed AD regarding this issue.

Request To Revise the Compliance Times in Paragraph (o) of the Proposed AD

United Parcel Service (UPS) requested that the NPRM be revised to simplify the compliance requirements in paragraph (o) of the proposed AD to reflect the current service experience of the fleet. UPS noted that almost 12 years have passed between the issuance of AD 2004–23–20 and the NPRM. UPS pointed out that during this time new information regarding structural fatigue has been developed and this information is not reflected in the NPRM. In addition, UPS stated that, while it is the FAA's standard practice to supersede an AD but retain information from the AD being superseded in an NPRM, in this NPRM, the compliance times in paragraph (o) of the proposed AD are confusing and difficult to interpret.

We agree with the commenter's request to clarify and simplify the compliance times in paragraph (g)(1) of this proposed AD (which corresponds to paragraphs (o)(1)(i) and (o)(1)(ii) of the proposed AD (in the NPRM)), for the reasons provided by the commenter. We have revised the compliance times in paragraph (g)(1) of this proposed AD to correspond with the compliance times specified in the MCAI.

Request To Include Inspection in One Location

UPS requested that we either include the inspection specified in paragraph (n)(1)(i) of the proposed AD (in the NPRM) as an AD requirement or as an airworthiness limitation. UPS stated that the inspection specified in Airbus Service Bulletin A300–53–6125, which is mandated by paragraph (n)(1)(i) of the proposed AD (in the NPRM), is a duplicate of ALI task 53–15–58. UPS noted that the NPRM and airworthiness limitation documents have different inspection interval requirements and there is the potential for duplicate and conflicting requirements if either document is revised.

We agree with the commenter's observation regarding duplicate inspection requirements. ALI task 53–15–58 was revised in Airbus ALS Part 2, Variation 13.2, to include the inspection in ALI task 53–15–58–03. The inspection is required for airplanes that have not incorporated the actions specified in Airbus Service Bulletin A300–53–6125 and is no longer required for airplanes that have incorporated the actions specified in Airbus Service Bulletin A300–53–6125. The FAA issued Alternative Method of Compliance (AMOC) ANM–116–15–387 to AD 2013–13–13, Amendment 39–17501 (79 FR 48957, August 19, 2014), that allows operators to revise their maintenance or inspection programs by incorporating Airbus ALS Part 2, Variation 13.2. We are working on proposed rulemaking that would require operators to incorporate the latest version of Airbus ALS Part 2, which includes the inspection mentioned previously by the commenter. The inspections in paragraph (m)(1) of the proposed AD (in the NPRM), along with the associated compliance times in paragraph (n)(1) of the proposed AD (in the NPRM), are not included in the requirements of this proposed AD. Therefore, no changes to this proposed AD are necessary regarding this issue.

FAA's Determination and Requirements of This SNPRM

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 pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Certain changes described above expand the scope of the rulemaking. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Differences Between This SNPRM and the MCAI

There is a difference between this SNPRM and the MCAI regarding how the compliance time is stated for the post-modification actions specified in paragraph (h) of this proposed AD. The MCAI states that the post-modification actions should be accomplished ''no later than 6 months (estimated by projection of airplane usage) prior to exceeding 24,500 flight cycles or 42,700 flight hours, whichever occurs first after Airbus SB A300–53–6178 embodiment.'' Paragraph (h) of this proposed AD specifies that the post-modification actions should be done ''Prior to exceeding 24,100 total flight cycles or 42,000 total flight hours, whichever occurs first after doing the modification required by paragraph (g)(2) of this AD.'' The compliance time in paragraph (h) of this proposed AD is based upon the average annual utilization of the Airbus airplanes identified in paragraph (c) of this proposed AD, which is 790 flight cycles and 1,463 flight hours (or 395 flight cycles and 732 flight hours over 6 months). We have rounded the compliance time in paragraph (h) of this proposed AD accordingly.

Costs of Compliance

We estimate that this SNPRM affects 65 airplanes of U.S. registry.

The actions that are required by AD 2004–23–20 and retained in this SNPRM take about 90 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $4,000 per product. Based on these figures, the estimated cost of the actions that were required by AD 2004–23–20 is $11,650 per product.

We also estimate that it would take up to 109 work-hours per product to comply with the new basic requirements of this SNPRM. The average labor rate is $85 per work-hour. Required parts would cost up to $6,070 per product. Based on these figures, we estimate the cost of this SNPRM on U.S. operators to be $996,775, or $15,335 per product.

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

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.

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) 2004–23–20, Amendment 39–13875 (69 FR 68779, November 26, 2004), and adding the following new AD:

Airbus: Docket No. FAA–2016–0451; Directorate Identifier 2013–NM–253–AD.

(a) Comments Due Date

We must receive comments by July 31, 2017.

(b) Affected ADs

This AD replaces AD 2004–23–20, Amendment 39–13875 (69 FR 68779, November 26, 2004) (''AD 2004–23–20'').

(c) Applicability

This AD applies to Airbus Model A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R, A300 F4–622R, and A300 C4–605R Variant F airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating that the material used to manufacture the upper frame feet was changed and negatively affected the fatigue life of the frame feet. We are issuing this AD to prevent cracking of the center section of the fuselage, which could result in a ruptured frame foot and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Modification of the Upper Frame Feet Fittings

(1) Except for airplanes identified in table 2 to paragraphs (g)(1) and (g)(2) of this AD: At the times specified in table 1 to paragraph (g)(1) of this AD, depending on the average flight time (AFT), as defined in paragraph (i) of this AD, modify the upper frame feet fittings, including doing all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6125, Revision 04, dated March 17, 2015 (''SB A300–53–6125, Revision 04''). Do all applicable related investigative and corrective actions before further flight. Where Airbus SB A300–53–6125, Revision 04, specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

TABLE 1 TO PARAGRAPH (g)(1) OF THIS AD—MODIFICATION SB A300–53–6125, REVISION 04

Airplane usage	Initial compliance time (flight cycles or flight hours, whichever occurs first since first flight)
AFT greater than 1.5	Within 10,200 flight cycles or 22,100 flight hours.
AFT equal to or less than 1.5	Within 11,000 flight cycles or 16,600 flight hours.

TABLE 2 TO PARAGRAPHS (g)(1) AND (g)(2) OF THIS AD—MODIFICATION SB A300–53–6178

Airplane configuration	Initial compliance time
Post-modification 12168	Within 27,100 flight cycles or 47,300 flight hours since the airplane's first flight, whichever occurs first.
Post-SB A300–53–6125	Within 27,100 flight cycles or 47,300 flight hours after embodiment of SB A300–53–6125, whichever occurs first.

(2) For airplanes identified in table 2 to paragraphs (g)(1) and (g)(2) of this AD: At the applicable compliance time specified in table 2 to paragraphs (g)(1) and (g)(2) of this AD, modify the upper frame feet fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6178, dated March 17, 2015. Where Airbus Service Bulletin A300–53–6178, dated March 17, 2015, specifies to contact Airbus for appropriate action, and specifies that action as ''RC'': Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

(h) Additional Post-Modification Actions

Prior to exceeding 24,100 total flight cycles or 42,000 total flight hours, whichever occurs first after doing the modification required by paragraph (g)(2) of this AD: Contact the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA); for instructions to do additional actions, and do those actions at the compliance times stated therein.

(i) Definition of AFT

For the purpose of this AD, to establish the applicable AFT for the actions required by paragraph (g)(1) of this AD, divide the total accumulated flight hours counted from take-off to touch-down by the total accumulated flight cycles as of the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the modification required by paragraph (g) of this AD, if the modification was performed before the effective date of this AD using the service information specified in paragraph (j)(1), (j)(2), (j)(3), or (j)(4) of this AD.

(1) Airbus Service Bulletin A300–53–6125, dated November 8, 2000.

(2) Airbus Service Bulletin A300–53–6125, Revision 01, dated June 13, 2003.

(3) Airbus Service Bulletin A300–53–6125, Revision 02, dated February 25, 2005.

(4) Airbus Service Bulletin A300–53–6125, Revision 03, dated September 13, 2011.

(k) Exempt Airplanes

For airplanes on which Airbus Modification 12168 has been embodied in production: The modification required by paragraph (g)(1) of this AD is not required by this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 Branch, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* 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 Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus'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 (g)(1) and (g)(2) 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.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0249, dated December 14, 2016; corrected January 10, 2017; for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–0451.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 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 Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 31, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–11826 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0321; Airspace Docket No. 17–ASO–11]

Proposed Establishment of Class E Airspace; Hattiesburg, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Forrest General Hospital Heliport in Hattiesburg, MS, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving Forrest General Hospital Heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the heliport.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20590; Telephone: 1–800–647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2017–0321; Airspace Docket No. 17–ASO–11, at the beginning of your comments. You may also submit and review received 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 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line 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 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/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 Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

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 proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface at Forrest General Hospital Heliport, Hattiesburg, MS, to support IFR operations in standard instrument approach procedures at the heliport.

Comments Invited

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers(FAA Docket No. FAA–2017–0321 and Airspace Docket No. 17–ASO–11) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0321; Airspace Docket No. 17–ASO–11.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or 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 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 between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Forrest General Hospital Heliport, Hattiesburg, MS, providing the controlled airspace required to support the new Copter RNAV (GPS) standard instrument approach procedures for IFR operations at Forrest General Hospital Heliport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal would 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.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO MS E5 Forrest General, Hattiesburg, MS [New]

Forrest General Hospital Heliport, MS
(Lat. 31°19′08″ N., long. 89°19′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Forrest General Hospital Heliport.

Issued in College Park, Georgia, on June 7, 2017.

Debra L. Hogan,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–12334 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0398; Airspace Docket No. 17–ANE–2]

Proposed Amendment of Class E Airspace, Windsor Locks, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Windsor Locks, CT, by removing the Notice to Airmen (NOTAM) part-time status at Bradley International Airport under Class E airspace designated as an extension to a Class C surface area. This change enhances the safety and management of instrument flight rules (IFR) operations at Bradley International Airport under these Class E airspace designations. This action also would update the geographic coordinates of the airport.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Send comments on this proposal to: U. S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg. Ground Floor Rm. W12–140, Washington, DC 20590; Telephone: 1–800–647–5527, or 202–366–9826. You must identify FAA Docket No. FAA–2016–0398 and Airspace Docket No. 17–ANE–2, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FAA Order 7400.11A, 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 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/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 Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

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 amend Class E airspace at Bradley International Airport, Windsor Locks, CT, to enhance the safety and management of IFR operations at the airport.

Comments Invited

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA–2016–0398 and Airspace Docket No. 17–ANE–2) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–0398; Airspace Docket No. 17–ANE–2.'' 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 concerning 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 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 between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace at Bradley International Airport, Windsor Locks, CT, by removing the NOTAM part-time status of the Class E airspace designated as an extension to a Class C surface area. This change would enhance the safety and management of IFR operations at the airport. This proposal would also update the geographic coordinates of the airport for Class E airspace designated as an extension to a Class C surface area, and for Class E airspace extending upward from 700 feet or more above the surface within a 10.9-mile radius of Bradley International Airport to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6003, and 6005, respectively, of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, 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.

Regulatory Notices and Analyses

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

Environmental Review

This proposal would 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.

Lists 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 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 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6003 Class E Airspace Designated as an Extension to a Class C Surface Area.

* * * * *

ANE CT E3 Windsor Locks, CT [Amended]

Bradley International Airport, CT
(Lat. 41°56′21″ N., long 72°41′00″ W.)

That airspace extending upward from the surface within 3.2 miles each side of the 224 bearing from Bradley International Airport, extending from the 5-mile radius to 9.6 miles southwest of the Bradley International Airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANE CT E5 Windsor Locks, CT [Amended]

Bradley International Airport, CT
(Lat. 41°56′21″ N., long. 72°41′00″ W.)

That airspace extending upward from 700 feet above the surface within a 10.9-mile radius of Bradley International Airport.

Issued in College Park, Georgia, on June 7, 2017.

Debra L. Hogan,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–12332 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0215; FRL–9963–78–Region 9]

Approval of California Air Plan Revisions, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD or District) portion of the California State Implementation Plan (SIP). These revisions concern the District's demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) in the South Coast Air Basin and Coachella Valley ozone nonattainment areas. The EPA had previously proposed to partially approve and partially disapprove SCAQMD's RACT SIP demonstration. However, since publication of the proposed rule, SCAQMD has addressed the identified deficiency that was the basis for the proposed partial disapproval by completing additional analysis and by submitting the analysis to the EPA as a supplement to the RACT demonstration. Because the supplemental analysis adequately addresses the deficiency, the EPA is withdrawing the previous proposed action and is now proposing full approval of SCAQMD's RACT SIP demonstration for the 2008 ozone NAAQS, as recently supplemented. The action proposed herein is based on a public draft version of the SCAQMD RACT supplement, and the EPA will not take final action until submittal of the final version of the SCAQMD RACT supplement as a revision of the California SIP.

DATES: Any comments must arrive by July 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0215 at *https://www.regulations.gov/,* or via email to Andrew Steckel, Rulemaking Office Chief at *Steckel.Andrew@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. The State's Submittal
A. What documents did the State submit?
B. Are there other versions of these documents?
C. What is the purpose of the submitted documents?
II. The EPA's Evaluation and Proposed Action
A. How is the EPA evaluating the submitted documents?
B. Do the documents meet the evaluation criteria?
C. Public Comment and Proposed Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. The State's Submittal

A. What documents did the State submit?

On June 6, 2014, the SCAQMD adopted the ''2016 AQMP) Reasonably Available Control Technology (RACT) Demonstration'' (''2016 AQMP RACT SIP''), and on July 18, 2014, the California Air Resources Board (CARB) submitted it to the EPA for approval as a revision to the California SIP. On January 18, 2015, the submittal of the 2016 AQMP RACT SIP was deemed complete by operation of law.

On May 22, 2017, CARB submitted the District's public draft version of the ''Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program'' (''2017 RACT Supplement'') along with a request for parallel processing.[1] The District prepared the 2017 RACT Supplement to address a deficiency that the EPA had identified in the 2016 AQMP RACT SIP and that was the basis for the EPA's proposed partial disapproval of that submittal published on November 3, 2016 (81 FR 76547). The 2017 RACT Supplement includes additional emissions analysis, two negative declarations, and certain conditions from permits for two specific stationary sources located in Coachella Valley. As noted in footnote 1 of this document, under our parallel processing procedure, the EPA proposes action on a public draft version of a SIP revision but will take final action only after the final version is adopted and submitted to the EPA for approval. In this instance, we are proposing action based on the public draft version of the 2017 RACT Supplement submitted by CARB on May 22, 2017 and will not take final action until the final version of the 2017 RACT

[1] Under the EPA's ''parallel processing'' procedure, the EPA proposes rulemaking action concurrently with the state's proposed rulemaking. If the state's proposed rule is changed, the EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, the EPA will publish a final rulemaking on the rule after responding to any submitted comments. Final rulemaking action by the EPA will occur only after the rule has been fully adopted by California and submitted formally to the EPA for incorporation into the SIP. See 40 CFR part 51, appendix V.

Supplement is adopted and submitted to the EPA. CARB's May 22, 2017 letter indicates that the District Board is scheduled to consider approval of the 2017 RACT Supplement and associated documents on July 7, 2017, and if it is approved, CARB will submit the final package to the EPA.

B. Are there other versions of these documents?

There are no previous versions of the documents described above in the SCAQMD portion of the California SIP for the 2008 8-hour ozone NAAQS.

C. What is the purpose of the submitted documents?

Volatile Organic Compounds (VOC) and nitrogen oxides (NO_X) together produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the Clean Air Act (CAA or ''Act'') requires states to submit regulations that control VOC and NO_X emissions. CAA sections 182(b)(2) and (f) require that SIPs for 1-hour ozone nonattainment areas classified as moderate or above implement RACT for any source covered by a Control Techniques Guidelines [2] (CTG) document and for any major source of VOC or NO_X. The EPA's implementing regulations for the 2008 ozone NAAQS extend the same RACT requirement to areas classified as moderate or above for the 2008 ozone NAAQS. *See* 40 CFR 51.1112.

The SCAQMD is subject to the RACT requirement as it is authorized under state law to regulate stationary sources in the South Coast Air Basin (''South Coast''), which is classified as an extreme nonattainment area, and in the Coachella Valley portion of Riverside County (''Coachella Valley''), which is classified as a severe-15 nonattainment area for the 2008 8-hour ozone NAAQS (40 CFR 81.305); 77 FR 30088 at 30101 and 30103 (May 21, 2012). Therefore, the SCAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOC or NO_X within the two nonattainment areas. Any stationary source that emits or has the potential to emit at least 10 tons per year of VOC or NO_X is a major stationary source in an extreme ozone nonattainment area (CAA section 182(e) and (f)), and any stationary source that emits or has the potential to emit at least 25 tons per year of VOC or NO_X is a major stationary source in a severe ozone nonattainment area (CAA section 182(d) and (f)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states, in part, that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG source category, and that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. *See id.,* at 12278; 70 FR 71612, at 71652 (November 29, 2005).

The submitted documents provide SCAQMD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. CARB also intends the 2017 RACT Supplement to address the EPA's April 14, 2016 (81 FR 22025) disapproval of the reasonably available control measures/RACT (RACM/RACT) demonstration for the South Coast for the 2006 fine PM ($PM_{2.5}$) NAAQS. Today's rulemaking addresses the RACT requirement for the 2008 ozone standard, not the RACM/RACT requirement for the $PM_{2.5}$ NAAQS. The EPA will address the latter requirement in a separate rulemaking. The EPA's technical support documents (TSDs) evaluating the 2016 AQMP RACT SIP and the 2017 RACT Supplement have more information about the District's submissions and the EPA's evaluation thereof.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating submitted documents?

SIP rules must be enforceable (*see* CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (*see* CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (*see* CAA section 193). Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOC or NO_X in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2) and (f), and 40 CFR 51.1112). The SCAQMD regulates an extreme ozone nonattainment area (*i.e.,* the South Coast Air Basin) and a severe ozone nonattainment area (*i.e.,* Coachella Valley) (see 40 CFR 81.305), so the District's rules must implement RACT.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992);
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990);
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook);
4. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992;
5. Memorandum from William T. Harnett to Regional Air Division Directors, (May 18, 2006), ''RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers'';
6. ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' (80 FR 12264; March 6, 2015); and
7. ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard –Phase 2'' (70 FR 71612; November 29, 2005).

B. Do the documents meet the evaluation criteria?

The 2016 AQMP RACT SIP and 2017 RACT Supplement build on the District's previous RACT SIP demonstrations: The 2006 RACT SIP (73 FR 76947, December 18, 2008), the 2007 AQMP (77 FR 12674, March 1, 2012) and the 2012 AQMP (79 FR 52526, September 3, 2014). The 2016 AQMP RACT SIP concludes, after a review and evaluation of more than 30 rules recently developed by other ozone nonattainment air districts, that SCAQMD's current rules meet the EPA's criteria for RACT acceptability and inclusion in the SIP for the 2008 8-hour ozone NAAQS. The 2017 RACT Supplement adds to the 2016 AQMP RACT SIP by including two negative declarations, and by including certain permit conditions for two major NO_X sources in Coachella Valley, and by providing a demonstration for how District rules meet the RACT requirement for major NO_X sources in the South Coast.

[2] CTGs are used to help define VOC RACT.

1. CTG Source Categories—South Coast and Coachella Valley

With regards to CTG source categories, based on its research of the District's permit databases and telephone directories for sources in the District for the 2007 AQMP, the 2012 AQMP, and the 2016 AQMP RACT SIP, the SCAQMD concluded that all identified sources subject to a CTG are subject to District rules that establish control requirements meeting or exceeding RACT. Because District rules apply in both the South Coast and Coachella Valley, the District's conclusion in this regard extends to both nonattainment areas.

Where there are no existing sources covered by a particular CTG document, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. The SCAQMD did not include any negative declarations in the 2016 AQMP RACT SIP; however, subsequent to its 2016 AQMP RACT SIP submittal, the EPA had several discussions with the SCAQMD and concluded there may be two CTG categories where the District has no sources applicable to the CTGs: (1) Surface Coating Operations at Shipbuilding and Ship Repair Facilities CTG; and (2) the paper coating portion of the 2007 Paper, Film, and Foil Coatings CTG. Based on further investigation, the District has agreed that negative declarations for the two CTG categories are warranted and has included them in the 2017 RACT Supplement.[3]

Based on our review and evaluation of the documentation provided by the SCAQMD in the 2016 AQMP RACT SIP (and earlier plans) and in the 2017 RACT Supplement, we agree that existing District rules approved in the SIP meet or are more stringent than the corresponding CTG limits and applicability thresholds for each category of VOC sources covered by a CTG document, other than the two CTG documents discussed above. As discussed in our TSD, we conclude that existing District rules require the implementation of RACT for each category of VOC sources covered by a CTG document (other than the two discussed above) located in the South Coast and Coachella Valley. For the Surface Coating Operations at Shipbuilding and Ship Repair Facilities CTG and the paper coating portion of the 2007 Paper, Film, and Foil Coatings CTG, we have reviewed the District's evaluation of its sources as described in the 2017 RACT Supplement and concur with the District's findings. As such, we propose approval of the District's two negative declarations included in the 2017 RACT Supplement.

2. Major Stationary Sources of VOC or NO_X Emissions (Other than RECLAIM Facilities)—South Coast and Coachella Valley

With respect to major stationary sources of VOC or NO_X emissions, the District provided supplemental information identifying 21 new major Title V sources since its 2006 RACT SIP certification and provided a list of equipment at these facilities that emit greater than 5 tons per year. The District concluded that all the identified equipment were covered by command-and-control VOC or NO_X rules that implement RACT. The District's efforts to identify all new major sources appears to be thorough, and we agree that the District's command-and-control VOC and NO_X rules approved in the SIP require implementation of RACT for all major non-CTG VOC and NO_X sources in the South Coast and Coachella Valley to which those rules apply. Generally, major NO_X sources in the South Coast and two major NO_X sources in Coachella Valley are not subject to the District's command-and-control rules, but are subject to a set of rules establishing a cap-and-trade program.[4] Our evaluation of these sources for compliance with the RACT requirement is covered in the following sections of this document.

3. RECLAIM Facilities in the South Coast

Within the South Coast, major NO_X sources are included in SCAQMD's Regulation XX (''Regional Clean Air Incentives Market (RECLAIM)'') program. The District adopted the RECLAIM program in 1993 to reduce emissions from the largest stationary sources of NO_X and sulfur oxides (SO_X) emissions through a market-based trading program that establishes annual declining NO_X and SO_X allocations (also called ''facility caps'') and allows covered facilities to comply with their facility caps by installing pollution control equipment, changing operations, or purchasing RECLAIM trading credits (RTCs) from the RECLAIM market. Section 40440 of the California Health and Safety Code (CH&SC) requires the District to monitor advances in best available retrofit control technology (BARCT) and periodically to reassess the overall facility caps to ensure that the facility caps are equivalent, in the aggregate, to BARCT emission levels imposed on affected sources.[5] Facilities subject to RECLAIM are exempted from a number of District command-and-control (also referred to as ''prohibitory'') rules that otherwise apply to sources of NO_X and SO_X emissions in the South Coast.[6] With certain exceptions, facilities located outside of the South Coast but within SCAQMD jurisdiction (*e.g.,* facilities in Coachella Valley) are not included in the RECLAIM program. As of the 2015 compliance year, the most recent compliance year fully audited, there are approximately 268 facilities in the RECLAIM NO_X program.[7]

Under longstanding EPA interpretation of the CAA, a market-based cap and trade program may satisfy RACT requirements by ensuring that the level of emission reductions resulting from implementation of the program will be equal, in the aggregate, to those reductions expected from the direct application of RACT on all affected sources within the nonattainment area.[8] The EPA approved the RECLAIM program into the California SIP in June 1998 based in part on a conclusion that the NO_X emission caps in the program satisfied the RACT requirements of CAA section 182(b)(2) and (f) for covered NO_X emission sources in the aggregate.[9] In 2005 and 2010, the District adopted revisions to the RECLAIM program, which the EPA approved in 2006 and 2011, respectively, based in part on conclusions that the revisions continued

[3] SCAQMD, ''Negative Declaration for Control Techniques Guidelines of Surface Coating Operations at Shipbuilding and Ship Repair Facilities, and Paper, Film, and Foil Coatings,'' May 2017, included at the back of the 2017 RACT Supplement.

[4] Certain sources such as fire-fighting facilities, police facilities, and public transit remain covered under SCAQMD's command-and-control rules and are exempted from the cap-and-trade program. *See* Rule 2001.

[5] BARCT is defined as ''an emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy, and economic impacts by each class or category of source.'' CH&SC section 40406. For the purposes of comparison, the EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. 44 FR 53762 (September 17, 1979). As such, we generally find that BARCT level of control meets or exceeds RACT level of control.

[6] *See* District Rule 2001 (''Applicability''), as amended May 6, 2005. Exemptions from RECLAIM, such as the exemption for certain facilities located in Coachella Valley, are listed in Rule 2001(i).

[7] See page 4 of the 2017 RACT Supplement.

[8] 59 FR 16690 (April 7, 1994) and the EPA, ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001 (January 2001), at Section 16.7 and 80 FR 12264, 12279 (March 6, 2015).

[9] 61 FR 57834 (November 8, 1996) and 63 FR 32621 (June 15, 1998).

to satisfy RACT requirements.[10] We refer to the current NO_X RECLAIM program as approved into the SIP as the ''2010 RECLAIM program.'' [11]

The 2016 AQMP RACT SIP relies on the 2010 RECLAIM program to satisfy the RACT requirements for major NO_X sources in the South Coast. With respect to such sources, we initially concluded, as described in our November 3, 2016 proposed rule, 81 FR 76547, at 76549, that the 2016 AQMP RACT SIP had failed to demonstrate that the 2010 RECLAIM program had achieved NO_X emissions reductions equal, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_X sources in the South Coast. We based our initial conclusion on information contained in SCAQMD's December 2015 Draft Final Staff Report (''2015 staff report'') revising Regulation XX that indicated that further reductions in the NO_X RECLAIM emissions cap were needed to achieve BARCT.[12] Given that BARCT level of control by definition meets or exceeds RACT level of control, we could have safely concluded that the 2010 RECLAIM program meets RACT level of control if it had been demonstrated to meet, in the aggregate, BARCT level of control. In light of the information in the 2015 staff report, however, there was evidence that the RECLAIM program had not achieved BARCT level of control, and thus we had inadequate basis to conclude that the 2010 RECLAIM program had achieved RACT level of control. The use of the BARCT level of control, rather than RACT, as the criterion for approval or disapproval was necessary for the purposes of the November 3, 2016 proposed rule because no specific demonstration of RECLAIM as meeting the RACT requirement had been submitted as part of the 2016 AQMP RACT SIP.

In response to our November 3, 2016 proposed partial disapproval of the South Coast RACT demonstration, and also to respond to the EPA's April 14, 2016 disapproval of the South Coast RACM/RACT demonstration for the 2006 $PM_{2.5}$ NAAQS, both of which were premised on the same deficient showing with respect to major NO_X sources in the South Coast that are subject to RECLAIM, the District has provided, in the 2017 RACT Supplement, a specific demonstration of how the 2010 RECLAIM program has achieved, in the aggregate, RACT level of control for major NO_X sources in the South Coast. In the 2017 RACT Supplement, the District has also evaluated the amendments in the RECLAIM program adopted by the District in 2015 and 2016 for compliance with the RACT requirement.[13]

When the NO_X RECLAIM program was first adopted, RECLAIM facilities were issued NO_X annual allocations that declined annually from 1993 until 2003 and remained constant after 2003. The ending RTC allocation (for all program sources) in 2003 was set at 34.2 tons per day (tpd). The annual allocations reflected the levels of BARCT to be in place at the RECLAIM facilities, and were the result of a BARCT analysis conducted in 1993.

As noted above, state law also requires the District to monitor advances in BARCT and to periodically reassess the overall facility caps to ensure that RECLAIM facilities achieve the same or greater emission reductions that would have occurred under a command-and-control approach. In 2005, the District examined the RECLAIM program and found that additional reduction opportunities existed due to the advancement of control technology.

As part of the 2005 NO_X BARCT reassessment, the District examined the most stringent emission limits in other air pollution control district rules and other requirements for equipment categories in the RECLAIM program in an effort to determine the appropriate mass emission reductions to reflect BARCT. District staff also examined types of retrofit technologies that had been achieved in practice regardless of whether these controls are required in SIP approved rules. As a result, the District identified new BARCT levels for six source categories in the NO_X RECLAIM program and established a new ending RTC allocation of 26.5 tpd, which represented the allowable programmatic emissions after BARCT implementation. The methodology for determining the ending RTC allocation relied on using actual emissions that are adjusted for growth and BARCT. Under amended rules adopted by the District in 2005, the facility annual allocations (in the aggregate) were reduced in annual increments from 34.2 tpd to 26.5 tpd between 2007 and 2011.

To demonstrate that the 2010 RECLAIM program (reflecting 2005 NO_X RECLAIM rule amendments) implemented RACT, the District re-examined the BARCT reevaluation that it conducted in 2005 and determined that, for certain source categories, the BARCT allocation level was essentially equivalent to RACT, but that, for certain other source categories, the BARCT allocation level was beyond RACT because there were no other rules in the District itself or any other California air district for these specific categories that were more stringent than the limits established under the original RECLAIM program in 1993 (and fully implemented by 2003). The District re-calculated a hypothetical ending annual RTC allocation (of 30.9 tpd) reflecting RACT implementation (rather than BARCT) and determined that, based on audited actual NO_X emissions in 2012, the 2010 RECLAIM program achieved a 16% reduction in actual NO_X emissions from RECLAIM sources from 2006 to 2012 whereas only a 9.6% reduction (*i.e.,* 34.2 tpd down to 30.9 tpd) was necessary to meet the RACT requirement. On that basis, the District concludes, in the 2017 RACT Supplement, that the 2010 RECLAIM program met the RACT requirement for major NO_X sources in the South Coast.

We have reviewed the District's evaluation of the 2010 RECLAIM program for compliance with the RACT requirement and find that the District's approach, assumptions, and calculation methods are reasonable. Based on the District's analysis, we conclude that the NO_X RECLAIM program, as amended in 2005, provided for NO_X reductions equivalent, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_X sources in the South Coast.

However, the emissions limits that form the basis for the District's re-examination of the RECLAIM program as described above are predicated on the

[10] 71 FR 51120 (August 29, 2006) and 76 FR 50128 (August 12, 2011).

[11] The RECLAIM program is codified by the District in Regulation XX, which includes a number of individual rules, such as Rule 2001 (''Applicability'') and Rule 2002 (''Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X)'' and many others. Herein, we refer to the ''2010 RECLAIM program,'' because the most recent SIP-approved RECLAIM rule amendments were adopted by the District on November 5, 2010. The 2010 amendments only affected certain sections of Rule 2002 pertaining to SO_X emissions, and thus, the ''2010 RECLAIM program'' reflects other amendments by the District that we approved prior to that time and that were unaffected by the 2010 amendments. For instance, with respect to NO_X allocations, the most recent SIP-approved amendments that are part of the ''2010 RECLAIM program'' were adopted by the District on January 7, 2005.

[12] Draft Final Staff Report, Proposed Amendments to Regulation XX Regional Clean Air Initiatives Market (RECLAIM) NO_X RECLAIM, December 4, 2015 *http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-dec4-030.pdf?sfvrsn=9.*

[13] On March 17, 2017, CARB submitted amended RECLAIM rules reflecting revisions adopted by the District on December 4, 2015 (significant revisions reducing total NO_X RTC holdings by 12 tpd by 2022), February 5, 2016 (minor revisions to certain definitions), and October 7, 2016 (new provisions intended to prevent the majority of facility shutdown credits from entering the market) to the EPA as a revision to the California SIP. The EPA has recently proposed to approve the amended rules. *See* 82 FR 25996 (June 6, 2017).

2005 BARCT reevaluation of the program. To comply with the RACT requirement for the 2008 ozone standard, for which designations were promulgated in 2012, the RECLAIM program had to be re-evaluated post-2012 for potential improvements in control technology since 2005. In 2015, the District conducted such a reevaluation and amended the RECLAIM rules to establish a new ending RTC allocation of 14.5 tpd (reflecting BARCT implementation) to be achieved incrementally from 2017 through 2022.

In the 2017 RACT Supplement, the District also provides a demonstration of how the RECLAIM program, as amended in 2015, meets the RACT requirement in the aggregate. To do so, the District performed a similar type of analysis as that described above for the 2005 RECLAIM amendments to determine a hypothetical ending RTC allocation reflecting RACT implementation (rather than BARCT) of 14.8 tpd. Because the ending RTC allocation (adopted by the District in 2015 and implementing BARCT) of 14.5 tpd is less than (*i.e.,* more stringent than) the hypothetical RTC allocation (implementing RACT) of 14.8 tpd, the District concludes that the program as amended in 2015 meets the RACT requirement.

We have reviewed the District's approach, assumptions, and methods to the updated RECLAIM program and agree that, as amended in 2015, the RECLAIM program provides for emissions reductions equivalent, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_X sources in the South Coast and thereby meets the RACT requirement for such sources for the purposes of the 2008 ozone standard.[14]

We also agree with the District that RECLAIM rule amendments in October 2016 help to ensure the success of the program in achieving BARCT-equivalent (and RACT-equivalent) reductions by preventing the majority of facility shutdown RTCs from entering the market and delaying the installation of pollution controls at other NO_X RECLAIM facilities.

4. RECLAIM Facilities in Coachella Valley

As noted above, unlike major NO_X sources in the South Coast, major NO_X sources in Coachella Valley are generally not eligible to participate in the RECLAIM program but rather are subject to the District's prohibitory rules.[15] The RECLAIM rules, however, establish an exception for electric generating facilities in Coachella Valley that submit complete permit applications on or after January 1, 2001. Such facilities may elect to enter the RECLAIM program, and to date, two facilities in Coachella Valley have elected to enter the program.

In our November 3, 2016 proposed rule, we did not extend the deficiency we identified in the RACT demonstration for the South Coast to Coachella Valley because we found that the two RECLAIM facilities that are located there were both equipped with control technology that meets or exceeds RACT level of control.[16] The basic premise for our proposed conclusion in this regard was that the RACT requirement was met through permit conditions requiring RACT level of control because such permit conditions are enforceable because they were issued under SIP-approved New Source Review (NSR) rules. However, our rationale was mistaken. Generally, NSR permit conditions alone are not sufficient to meet the RACT requirement even where the conditions require control technology that represent RACT level of control because permit conditions are subject to revision outside of the SIP revision process and because permits can expire whereas SIP limits must be permanent until revised or rescinded through a SIP revision. On the other hand, permit conditions that require RACT level of control at a given facility may suffice to meet the RACT requirement if they are submitted as a SIP revision and approved into the SIP.

In subsequent communications with the District, we noted our mistaken rationale with respect to RACT compliance and the two Coachella Valley facilities. In response, the District reviewed the permits for the facilities and included the relevant permit conditions for each as appendices A and B to the 2017 RACT Supplement. The permit conditions submitted by the District pertain to specified NO_X emission limits ranging from 2.5 to 5 parts per million (ppm) for the gas turbines, control technology (selective catalytic reduction (SCR)), and monitoring, among other elements. The District's analysis indicates that SCR is generally identified as an emission control technology to achieve ''best available control technology'' emission limits in the range of 2 to 5 ppm for gas turbines, and thus the controls meet or exceed the requirements for RACT. We have reviewed the permit conditions (and SCAQMD's analysis) and find that they provide for RACT level of control (or better) at the two RECLAIM facilities in Coachella Valley. As such, we propose to approve the permit conditions as part of the SIP.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, and based on the rationale discussed above, the EPA proposes to approve the 2016 AQMP RACT SIP and 2017 RACT Supplement, including the RACT demonstrations provided in the two documents, negative declarations for two CTG source categories, and certain permit conditions for two power plants in Coachella Valley, because we believe they fulfill the RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1112 for the South Coast and Coachella Valley for the 2008 ozone NAAQS. As noted above, our proposed action relies upon our evaluation of the public draft version of the 2017 RACT Supplement and we will not take final action until it is adopted and submitted to us as a revision to the California SIP. If the 2017 RACT Supplement that we have evaluated were to be revised significantly prior to adoption and submittal, we will need to reconsider our proposed action accordingly. We are withdrawing our previous proposal (61 FR 76547, November 3, 2016) to partially approve and partially disapprove the 2016 AQMP RACT SIP and are now proposing full approval because we have concluded that the 2016 AQMP RACT SIP, as supplemented by the 2017 RACT Supplement, now meets the relevant CAA requirements.[17] If you submitted

[14] While not required for our evaluation of the 2016 AQMP RACT SIP and 2017 RACT Supplement for compliance with the RACT requirement for the South Coast and Coachella Valley for the 2008 ozone standard, we also take note of several recent developments that pertain to the RECLAIM program. On March 3, 2017, the District adopted the 2016 Air Quality Management Plan and in so doing directed staff to modify the 2016 AQMP NO_X RECLAIM measure to achieve an additional 5 tpd NO_X emission reduction as soon as feasible, and not later than 2025, to transition the RECLAIM program to a command-and-control regulatory structure requiring BARCT level controls as soon as practicable. *See* SCAQMD, Resolution No. 17–2 (''A Resolution of the South Coast Air Quality Management District (SCAQMD or District) Governing Board certifying the Final Program Environmental Impact Report (PEIR) for the 2016 Air Quality Management Plan (AQMP or Plan), and adopting the 2016 AQMP, which is to be submitted into the California State Implementation Plan (SIP)''), March 3, 2017, page 17.

[15] District Regulation XX (''Regional Clean Air Incentives Market (RECLAIM)'', Rule 2001 (''Applicability''), paragraph (i)(1)(I).

[16] See footnote 8 of our November 3, 2016 proposed rule at 81 FR 76547, at 76549.

[17] Although we are withdrawing our November 3, 2016 proposed action, our TSD associated with that proposed action still contains pertinent information

Continued

comments on our previous proposed action and believe that those comments remain relevant, you will need to resubmit your comments within the public comment period for today's proposed action.

We will accept comments from the public on this proposal until July 17, 2017. If we take final action to approve the submitted documents, our final action will incorporate them into the federally-enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference certain permit conditions for two stationary sources in Coachella Valley as described above in preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 7, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–12469 Filed 6–14–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0218; FRL–9963–56–Region 9]

Approval of California Air Plan Revisions, Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Placer County Air Pollution Control District (PCAPCD or ''the District'') portion of the California State Implementation Plan (SIP). These revisions concern the District's demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 1997 and 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS), and negative declarations for the polyester resin source category for the 2008 8-hour ozone standard. We are proposing action on local SIP revisions under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0218 at *http://www.regulations.gov,* or via email to Andrew Steckel, Rulemaking Office Chief at *steckel.andrew@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov* or Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

that summarizes our evaluation of SCAQMD's 2016 AQMP RACT SIP.

Table of Contents

I. The State's Submittal
A. What documents did the State submit?
B. Are there other versions of these documents?
C. What is the purpose of the RACT SIP submissions?
II. The EPA's Evaluation and Proposed Action
A. How is the EPA evaluating the RACT SIP submissions?
B. Do the RACT SIP submissions meet the evaluation criteria?
C. EPA's Recommendations To Strengthen the RACT SIP
D. Proposed Action and Public Comment
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What documents did the State submit?

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED DOCUMENTS

Local agency	Document	Adopted	Submitted
PCAPCD	2006 Reasonably Available Control Technology State Implementation Plan Update Analysis ("2006 RACT SIP").	8/10/06	7/11/07
PCAPCD	2014 Reasonably Available Control Technology State Implementation Plan Analysis ("2014 RACT SIP").	4/10/14	7/18/14

On January 11, 2008, the submittal for PCAPCD's 2006 RACT SIP Analysis for the 1997 8-hour ozone NAAQS was deemed by operation of law to meet the completeness criteria in Title 40 of the Code of Federal Regulations (CFR) Part 51 Appendix V, which must be met before formal EPA review. On January 18, 2015, the submittal for PCAPCD's 2014 RACT SIP Analysis for the 2008 8-hour ozone NAAQS was deemed by operation of law to meet the completeness criteria as well.

B. Are there other versions of these documents?

There are no previous versions of these documents in the PCAPCD portion of the California SIP for the 1997 or 2008 8-hour ozone standards.

C. What is the purpose of the RACT SIP submissions?

Volatile organic compounds (VOCs) and nitrogen oxides (NO_X) help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit enforceable regulations that control VOC and NO_X emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as moderate or above require implementation of RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_X. The PCAPCD is subject to this requirement because it contains an area designated and classified as severe-15 nonattainment for the 1997 and 2008 8-hour ozone NAAQS.[1] Therefore, the PCAPCD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_X within the nonattainment area. Any stationary source that emits or has the potential to emit at least 25 tons per year of VOCs or NO_X is a major stationary source in a severe ozone nonattainment area (CAA sections 182(d) and (f)).

Section IV.G of the preamble to the EPA's final rule to implement the 1997 8-hour ozone NAAQS (70 FR 71612, 71652–61 November 29, 2005) discusses RACT requirements. It states in part that where a RACT SIP is required, states implementing the 8-hour standard generally must assure that RACT is met either through a certification that previously required RACT controls represent RACT for 8-hour implementation purposes or through a new RACT determination. Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS (80 FR 12264, 12278–83 March 6, 2015) discusses similar requirements for RACT. The submitted documents provide PCAPCD's analyses of its compliance with the CAA section 182 RACT requirements for the 1997 and 2008 8-hour ozone NAAQS. The EPA's technical support documents (TSDs) have more information about the District's submissions and the EPA's evaluations thereof.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the RACT SIP submissions?

Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO_X in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2), (f)). The PCAPCD regulates a severe ozone nonattainment area (see 40 CFR 81.305), so the District's rules must implement RACT.

Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements for the applicable criteria pollutants include the following:

1. ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2'' (70 FR 71612; November 29, 2005).

2. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

3. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

4. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

5. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.

6. Memorandum from William T. Harnett to Regional Air Division Directors, (May 18, 2006), ''RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers''.

7. RACT SIPs, Letter dated March 9, 2006 from EPA Region IX (Andrew Steckel) to CARB (Kurt Karperos) describing Region IX's understanding of what constitutes a minimally acceptable RACT SIP.

8. RACT SIPs, Letter dated April 4, 2006 from EPA Region IX (Andrew Steckel) to CARB (Kurt Karperos) listing EPA's current CTGs, Alternative Control Techniques (ACTs), and other

[1] 40 CFR 81.305; 75 FR 24409 at 24419 (May 5, 2010) (final rule reclassifying the Sacramento Metro area as severe-15 nonattainment for the 1997 8-hour ozone NAAQS); and 77 FR 30088 at 30104–05 (May 21, 2012) (final rule designating and classifying the Sacramento Metro area as severe-15 nonattainment for the 2008 8-hour ozone NAAQS).

documents which may help to establish RACT.

9. ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' (80 FR 12264; March 6, 2015).

With respect to major stationary sources, even though the PCAPCD nonattainment area was classified as ''serious'' nonattainment for the 1997 8-hour ozone NAAQS at the time the District adopted its 2006 RACT SIP, the District performed its 2006 RACT SIP demonstration as though it were classified as a ''severe'' nonattainment area by analyzing for major VOC/NO_X sources that emit or have the potential to emit at least 25 tons per year (tpy) as opposed to the 50 tpy threshold associated with major sources in ''serious'' ozone nonattainment areas.[2] CAA section 182(c), (d), and (f).

On May 5, 2010 (75 FR 24409), EPA granted the State of California's request to reclassify the Sacramento Metropolitan ozone nonattainment area, which includes parts of the PCAPCD, from ''serious'' to ''severe-15'' for the 1997 8-hour ozone NAAQS. The Sacramento Metropolitan ozone nonattainment area is also classified as severe-15 for the 2008 8-hour ozone standard. 40 CFR 81.305. We evaluated both PCAPCD's 2006 RACT SIP and its 2014 RACT SIP based on a ''severe-15'' classification.

B. Do the RACT SIP submissions meet the evaluation criteria?

PCAPCD's 2006 and 2014 RACT SIPs provide the District's demonstration and certification that the applicable SIP for the Placer County APCD satisfies CAA section 182 RACT requirements for the 1997 and 2008 8-hour ozone NAAQS. This conclusion is based on the District's analysis of SIP-approved requirements that apply to: (1) CTG source categories; and (2) major non-CTG stationary sources of NO_X or VOC emissions. See PCAPCD's 2006 RACT SIP Tables A and B and 2014 RACT SIP Table 1.

With respect to the 2006 RACT SIP, Table A in the appendix to the 2006 RACT SIP identifies the CTG and non-CTG categories with the applicable district rules. The District did identify in Table D–1 of the 2006 RACT SIP several rules that required re-submittal since newer versions of the rules had been adopted. We reviewed the submittal status of the rules in Table D–1 and conclude that the rules have been submitted and approved into the SIP as meeting RACT.

Table B in the appendix to the 2006 RACT SIP lists major sources of VOC and NO_X in the District and includes a statement that all the major stationary sources have adopted District rules that satisfy RACT requirements. We reviewed CARB's emissions inventory database for other potential CTG and/or major non-CTG sources not included in PCAPCD's analysis and identified one major point source in the District that is subject to section 182 RACT but was not identified by the District. Capital Drum Inc., in Roseville, CA is a drum manufacturer/refurbisher and emitted 34 tpy of VOCs in 2007. We determined the source is covered by District Rule 223 ''Metal Container Coating,'' which meets current RACT.

With respect to the 2014 RACT SIP, Table 1 of the 2014 RACT SIP lists existing District rules that have been determined to meet RACT and also lists the applicable CTGs. PCAPCD compared its rules to the CTGs and rules of other air districts to determine if they satisfied RACT. We conclude the PCAPCD rules meet RACT.

The 2014 RACT SIP identified three major stationary point sources of NO_X or VOC: Two biomass boilers and a natural gas turbine. PCAPCD's 2014 RACT SIP states the biomass boilers and natural gas turbine are subject to District RACT rules.

We reviewed CARB's emissions inventory database for other potential CTG and/or major non-CTG sources not included in PCAPCD's analysis and did not identify any other major sources in the District. However, CARB's emissions inventory identified one potential CTG source under standard industrial classification (SIC) code 2821 for the manufacture of high-density polyethylene, polypropylene, and polystyrene CTG—for which PCAPCD's 2014 RACT SIP indicated it had no subject sources. Further investigation revealed that the SIC listed in CARB's emissions inventory database for Sak Construction LLC was incorrect and that Sak Construction LLC does not manufacture high-density polyethylene, polypropylene, and polystyrene and therefore is not subject to the CTG. The TSD contains further details.

Where there are no existing sources covered by a particular CTG document, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. Table C of PCAPCD's 2006 RACT SIP and Table 2 of PCAPCD's 2014 RACT SIP lists the District's negative declarations where it had no sources subject to the applicable CTGs for the 1997 and 2008 8-hour ozone standards respectively. The District based its conclusions on a review of its permit database, internet search, business listings, SIC codes, industrial trade association records, and yellow pages. We summarized the District's negative declarations in Table 2 below.

TABLE 2—PCAPCD NEGATIVE DECLARATIONS

CTG Source category	CTG Reference document	2006 RACT SIP	2014 RACT SIP
Aerospace Coatings	EPA–453/R–97–004, Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.	X	X
Automobile and Light-duty Truck Assembly Coatings.	EPA–450/2–77–008, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.	X	X
	EPA 453/R–08–006, Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.	N/A*	X
Dry Cleaning (Petroleum)	EPA–450/3–82–009, Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.	X	X
Fiberglass Boat Manufacturing	EPA 453/R–08–004, Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials	N/A*	X
Flexible Packaging Printing	EPA–453/R–06–003, Control Techniques Guidelines for Flexible Package Printing	N/A*	X
Large Appliances Surface Coatings.	EPA–450/2–77–034, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.	X	X
	EPA 453/R–07–004, Control Techniques Guidelines for Large Appliance Coatings	N/A*	X

[2] Major stationary sources of VOC or NO_X in serious ozone nonattainment are those sources that emit or have the potential to emit at least 50 tons per year.

[3] Based on PCAPCD's 2014 RACT SIP, Table 2, a negative declaration was required for the Polyester Resin CTG. PCAPCD adopted the required negative declaration and submitted it with its 2014 RACT SIP.

TABLE 2—PCAPCD NEGATIVE DECLARATIONS—Continued

CTG Source category	CTG Reference document	2006 RACT SIP	2014 RACT SIP
Magnet Wire	EPA–450/2–77–033, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.	X	X
Metal Furniture Coatings	EPA–450/2–77–032, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.	X	X
	EPA 453/R–07–005, Control Techniques Guidelines for Metal Furniture Coatings	N/A*	X
Natural Gas/Gasoline	EPA–450/3–83–007 Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.	X	X
Paper and Fabric	EPA–450/2–77–008, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.		X
Paper, Film and Foil Coatings	EPA 453/R–07–003, Control Techniques Guidelines for Paper, Film, and Foil Coatings	N/A*	X
Pharmaceutical Products	EPA–450/2–78–029, Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.	X	X
Polyester Resin [3]	EPA–450/3–83–008, Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.	X	X
	EPA–450/3–83–006, Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.	X	X
Refineries	EPA–450/2–77–025, Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.	X	X
	EPA–450/2–78–036, Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.	X	X
Rubber Tire	EPA–450/2–78–030, Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.	X	X
Ships/Marine Coating	61 FR 44050, 08/27/96, Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating).	X	X
Synthetic Organic Chemicals	EPA–450/3–84–015, Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.	X	X
	EPA–450/4–91–031, Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.	X	X

*These CTGs were issued between 2006–2008 and are not a requirement for the 1997 8-hour ozone standard.

PCAPCD provided its 2006 and 2014 RACT SIPs for public comment prior to the public hearing for adoption. No written comments were received by the District.

We are proposing to find that PCAPCD's 2006 and 2014 RACT SIP submissions, including the above negative declarations, adequately demonstrate that its rules satisfy RACT for the 1997 and 2008 8-hour ozone NAAQS. Our TSDs have more information on our evaluation.

C. EPA Recommendations To Strengthen the RACT SIP

The TSD for the 2014 RACT SIP describes recommendations for potential future emission reductions the next time the District opens the rules for amendment.

D. Proposed Action and Public Comment

Based on the evaluations discussed above and more fully in our TSDs, we are proposing to conclude that PCAPCD's 2006 and 2014 RACT SIPs satisfy CAA section 182 RACT requirements for the 1997 and 2008 8-hour ozone NAAQS and to fully approve these submissions into the California SIP pursuant to section 110(k)(3) of the Act.

We are also proposing to approve the submitted negative declarations for the polyester resins CTGs for the 2008 8-hr Ozone NAAQS. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these RACT submissions into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (2 U.S.C. 1531–1538);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose

substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 16, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–12344 Filed 6–14–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Chapter I

[Docket ID FEMA–2017–0023]

Evaluation of Existing Regulations, Policies, and Information Collections

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Request for comment.

SUMMARY: As part of its implementation of Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' issued by the President on January 30, 2017, and Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' issued by the President on February 24, 2017, the Federal Emergency Management Agency (FEMA) is seeking input on regulations, policies, and information collections that may be appropriate for repeal, replacement, or modification.

DATES: Comments must be received by August 14, 2017.

ADDRESSES: Comments must be identified by docket ID FEMA–2017–0023 and may be submitted by one of the following methods:

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

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472–3100.

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the ''Privacy and Security Notice'' link on the homepage of *www.regulations.gov.*

Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

FOR FURTHER INFORMATION CONTACT: Liza Davis, Associate Chief Counsel, Regulatory Affairs, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–4046.

SUPPLEMENTARY INFORMATION: On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (82 FR 9339). That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Order stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Toward that end, for fiscal year 2017, Executive Order 13771 requires:

(1) ''Unless prohibited by law, whenever an executive department or agency . . . publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed.'' Sec. 2(a).

(2) ''For fiscal year 2017, . . . the heads of all agencies are directed that the total incremental cost of all new regulations, including repealed regulations, to be finalized this year shall be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by the Director of the Office of Management and Budget . . . .'' Sec. 2(b).

(3) ''In furtherance of the requirement of subsection (a) of this section, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' Sec. 2(c).

Further, the Executive Order requires that for fiscal year 2018, and for each fiscal year thereafter, the head of each agency shall identify, for each regulation that increases incremental cost, offsetting regulations, and provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation. During the Presidential budget process beginning in fiscal year 2018 and for each year thereafter, the Director of the Office of Management and Budget (Director) will identify to each agency a total amount of incremental costs that will be allowed for such agency in issuing new regulations and repealing regulations for the next fiscal year. No regulations exceeding the agency's total incremental cost allowance will be permitted in that fiscal year, unless required by law or approved in writing by the Director. The total incremental cost allowance may allow an increase or require a reduction in total regulatory cost.

Additionally, on February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda'' (82 FR 12285). The Order established a Federal policy to alleviate unnecessary regulatory burdens placed on the American people. Section 3(a) of the Executive Order directs Federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification. The Executive Order further asks that each Task Force attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) Are outdated, unnecessary, or ineffective;

(iii) Impose costs that exceed benefits;

(iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) Are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or

(vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

The Office of Management and Budget has directed that agency policies (such as guidance and interpretative documents) and information collections that impose costs on the public may also be identified under the above criteria, in addition to regulations.

Section 3(e) of the Executive Order calls on the Task Force to seek input and other assistance on this task, as

permitted by law, from entities significantly affected by Federal regulations, including State, local, and Tribal governments, small businesses, consumers, non-governmental organizations, and trade associations.

Finally, on March 28, 2017, the President signed Executive Order 13783, ''Promoting Energy Independence and Economic Growth'' (82 FR 16093). Among other things, Executive Order 13783 requires the heads of agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. Such review does not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth elsewhere in that order.

Executive Order 13783 defined ''burden'' for purposes of the review of existing regulations to mean to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources.

Through this notice, FEMA is soliciting such input from the public to inform the Task Force's evaluation of existing regulations, policies, and information collections pursuant to these three Executive Orders. FEMA requests that commenters be as specific as possible with how, for example, a particular regulation, policy or information collection imposes costs that exceed benefits or is otherwise unnecessary or ineffective. Commenters should include any supporting data or other information such as cost information, provide a **Federal Register** or Code of Federal Regulations citation when referencing a specific regulation, and provide specific suggestions regarding repeal, replacement, or modification.

Although FEMA will not respond to individual comments, FEMA values public feedback and will give careful consideration to all input that it receives.

Authority: Executive Order 13771; Executive Order 13777; Executive Order 13783.

Dated: June 8, 2017.

Robert Fenton,

Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–12366 Filed 6–14–17; 8:45 am]

BILLING CODE 9111–19–P

Notices

Federal Register
Vol. 82, No. 114
Thursday, June 15, 2017

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

Forest Service

Ozark-Ouachita Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ozark-Ouachita Resource Advisory Committee (RAC) will meet in Russellville, Arkansas. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: *https://cloudapps-usda-gov.secure.force.com/FSSRS/RAC_Page?id=001t0000002JcwBAAS.*

DATES: The meeting will be held on June 29, 2017, beginning at 4:00 p.m., Central Standard Time.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at Ozark-St. Francis National Forests (NF) Supervisor's Office, 605 West Main, Russellville, Arkansas.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Ouachita NF Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Caroline Mitchell, RAC Coordinator, by phone at (501) 321–5318 or via email at *carolinemitchell@fs.fed.us;* or Terry Krasko, Designated Federal Officer, by phone at (479) 964–7234 or via email at *tkrasko@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and recommend project proposals for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 22, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Caroline Mitchell, RAC Coordinator, Ouachita NF Supervisor's Office, Post Office Box 1270, Hot Springs, Arkansas; or via facsimile to (501) 321–5399.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 19, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–12367 Filed 6–14–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Uinta-Wasatch-Cache National Forest; Utah; Uinta Express Pipeline Project

AGENCY: Forest Service, USDA.

ACTION: Notice of cancellation of preparation of an environmental impact statement.

SUMMARY: The Uinta-Wasatch-Cache National Forest is cancelling the notice of intent issued on January 29, 2014 (79–FR–4657) for preparation of an environmental impact statement for the Uinta Express Pipeline Project. The proposed project and the associated environmental impact statement have been cancelled.

FOR FURTHER INFORMATION CONTACT: Questions concering this notice should be directed to Peter C. Gomben, Uinta-Wasatch-Cache National Forest Environmental Coordinator, 857 West South Jordan Parkway, South Jordan, UT 84095–8594. Telephone (801) 999–2182. Email: *pgomben@fs.fed.us.*

Dated: May 26, 2017.

Glenn P. Casamassa

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–12368 Filed 6–14–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–29–2017]

Approval of Subzone Status, R. Ortiz Auto Distributors, Inc., Caguas, Puerto Rico

On March 1, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of R. Ortiz Auto Distributors, Inc., in Caguas, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 12788, March 7, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 163H was approved on May 18, 2017, subject to the FTZ Act and the Board's regulations, including

Section 400.13, and further subject to FTZ 163's 923.36-acre activation limit.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12423 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–35–2017]

Approval of Subzone 43B Expansion; Mead Johnson & Company, LLC; Zeeland, Michigan

On March 9, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of Battle Creek, grantee of FTZ 43, requesting an expansion of Subzone 43B subject to the existing activation limit of FTZ 43, on behalf of Mead Johnson & Company, LLC, in Zeeland, Michigan.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 13578–13579, March 14, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 43B was approved on May 4, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 43's 2,000-acre activation limit.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12422 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–1–2017]

Foreign-Trade Zone (FTZ) 221—Mesa, Arizona; Authorization of Production Activity; Apple Inc.; (Data Server Cabinets); Mesa, Arizona

On December 27, 2016, the City of Mesa Office of Economic Development, grantee of FTZ 221, submitted a notification of proposed production activity to the FTZ Board on behalf of Apple Inc., within Subzone 221A, in Mesa, Arizona.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 2311, January 9, 2017). On April 26, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12414 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–03–2017]

Foreign-Trade Zone (FTZ) 122—Corpus Christi, Texas, Authorization of Production Activity, Superior Weighting Products LLC (Barite/Calcium Carbonate/Bentonite), Corpus Christi, Texas

On January 3, 2017, the Port of Corpus Christi, grantee of FTZ 122, submitted a notification of proposed production activity to the FTZ Board on behalf of Superior Weighting Products LLC, within FTZ 122, in Corpus Christi, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 4286, January 13, 2017). On May 3, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12410 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–04–2017]

Foreign-Trade Zone (FTZ) 277—Western Maricopa County, Arizona: Authorization of Production Activity; IRIS USA, Inc. (Plastic Household Storage/Organizational Containers), Surprise, Arizona

On December 23, 2016, IRIS USA, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 277—Site 12, in Surprise, Arizona.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 4842, January 17, 2017). On April 24, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12412 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–28–2017]

Approval of Subzone Status; Caribe Rx Services, Inc.; Caguas, Puerto Rico

On March 1, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of Caribe Rx Services, Inc., in Caguas, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 12788, March 7, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 163G was approved on May 18, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 163's 923.36-acre activation limit.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12420 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–75–2016]

Foreign-Trade Zone (FTZ) 122—Corpus Christi, Texas, Authorization of Production Activity, Voestalpine Texas, LLC (Hot Briquetted Iron By-Products), Portland, Texas

On November 7, 2016, the Port of Corpus Christi Authority, grantee of FTZ 122, submitted a notification of proposed production activity to the FTZ Board on behalf of voestalpine Texas, LLC, within Subzone 122T, in Portland, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 80634, November 16, 2016). On March 8, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12415 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–6–2017]

Foreign-Trade Zone (FTZ) 20—Norfolk, Virginia, Authorization of Production Activity, STIHL Incorporated (Outdoor Power Products Manufacturing), Virginia Beach, Virginia

On December 23, 2016, STIHL Incorporated submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ Subzone 20E, in Virginia Beach, Virginia.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 6490, January 19, 2017). On April 20, 2017, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring that foreign-status lithium ion batteries be admitted to the subzone in privileged foreign status (19 CFR 146.41).

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12424 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–07–2017]

Foreign-Trade Zone (FTZ) 29—Louisville, Kentucky, Authorization of Production Activity, Amcor Flexibles L.L.C. (Flexible Packaging Production), Shelbyville, Kentucky

On January 11, 2017, the Louisville & Jefferson Country Riverport Authority, grantee of FTZ 29, submitted a notification of proposed production activity to the FTZ Board on behalf of Amcor Flexibles L.L.C., within FTZ 29, in Shelbyville, Kentucky.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 8506, January 26, 2017). On May 11, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, except for the foreign-status component identified as ''aluminum/plastic tear strip'' due to insufficient information. The applicant may, however, submit another notification of proposed production activity with more detailed information for the foreign-status component in question.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12425 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–30–2017]

Approval of Subzone Status: Destilería Serrallés, Inc., Ponce, Puerto Rico

On March 1, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of Destilería Serrallés, Inc., in Ponce, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 12789, March 7, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 163I was approved on May 18, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 163's 923.36-acre activation limit.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12421 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–72–2016]

Foreign-Trade Zone (FTZ) 80—San Antonio, Texas; Authorization of Production Activity: CGT U.S., Ltd.; Subzone 80E (Polyvinyl Chloride (PVC) Coated Upholstery Fabric Cover Stock), New Braunfels, Texas

On October 18, 2016, CGT U.S., Ltd., submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within Subzone 80E, in New Braunfels, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 76914–76915, November 4, 2016). On February 15, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and

the FTZ Board's regulations, including Section 400.14, and further subject to restriction requiring that foreign-status polyester and polycotton knit fabrics be admitted to the subzone in privileged foreign-status (19 CFR 146.41).

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12413 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–85–2016]

Foreign-Trade Zone (FTZ) 76—Danbury, Connecticut; Authorization of Production Activity; MannKind Corporation (Fumaryl Diketopiperazone (FDKP) Carrier/Receptor Powder), Danbury, Connecticut

On December 21, 2016, MannKind Corporation submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ Subzone 76B, in Danbury, Connecticut.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 1689, January 6, 2017). On April 20, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 8, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–12411 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–982]

Utility Scale Wind Towers From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding its administrative review of the countervailing duty (CVD) order on utility scale wind towers (wind towers) from the People's Republic of China (PRC) for the period January 1, 2016, through December 31, 2016.

DATES: Effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated an administrative review of the CVD order on wind towers from the PRC with respect to 56 companies for the period January 1, 2016, through December 31, 2016,[1] based on a request by the petitioner.[2] On May 31, 2017, the petitioner timely withdrew its request for an administrative review of all 56 companies.[3] No other party requested a review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, the petitioner withdrew its request for review within the 90-day deadline, and no other party requested an administrative review of the CVD order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess CVDs on all entries of wind towers from the PRC during the period January 1, 2016, through December 31, 2016, at rates equal to the cash deposit of estimated CVDs required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notifications

This notice serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 9, 2017.

Gary Taverman

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–12408 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188 (April 10, 2017) (*Initiation Notice*).

[2] The petitioner is the Wind Tower Trade Coalition.

[3] *See* Petitioner's May 31, 2017 Withdrawal of Request for Administrative Review.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–819]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Notice of Partial Rescission of Countervailing Duty Administrative Review, 2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On January 13, 2017, the Department of Commerce (the Department) initiated an administrative review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey). Based on a timely withdrawal of requests for review, we are rescinding this administrative review with respect to the following three companies: DufEnergy Trading SA (formerly known as Duferco Investment Services SA) (DufEnergy), Duferco Celik Ticaret Limited (Duferco Celik), and Ekinciler Demir ve Celik Sanayi A.S. (Ekinciler Demir).

DATES: Effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 2016, the Department published a notice of opportunity to request an administrative review of the CVD order on rebar from Turkey for the period January 1, 2015, through

December 31, 2015.[1] On November 23, 2016, the Department received letters from Colakoglu Metalurji A.S., Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S., and Kaptan Demir Celik Endustrisi ve Ticaret A.S., respectively, requesting an administrative review.[2] On November 30, 2016, the Department received a letter from the Rebar Trade Action Coalition (RTAC, or the petitioner) [3] requesting a review of 19 exporters and/or producers of subject merchandise.[4] On January 13, 2017, the Department published a notice of initiation of administrative review for this CVD order.[5] On April 13, 2017, the petitioner submitted a timely withdrawal of its request for review of DufEnergy, Duferco Celik, and Ekinciler Demir.[6]

Partial Rescission of the 2015 Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. The Department published the *Initiation Notice* for this administrative review on January 13, 2017. The petitioner timely withdrew its request for a review of DufEnergy, Duferco Celik, and Ekinciler Demir within the 90-day period. No other party requested an administrative review of these particular companies. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice,[7] we are rescinding this review of the CVD order on rebar from Turkey with respect to DufEnergy, Duferco Celik, and Ekinciler Demir. This review will continue with respect to all other firms for which a review was requested and initiated.

Assessment

The Department will instruct Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2015, through December 31, 2015, in accordance with 19 CFR 351.212(c)(1)(i).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 9, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–12409 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 81 FR 76920 (November 4, 2016).

[2] *See* Colakoglu Metalurji A.S.' November 23, 2016 Request for CVD Administrative Review; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.' November 23, 2016 Request for CVD Administrative Review; and Kaptan Demir Celik Endustrisi ve Ticaret A.S.' November 23, 2016 Request for CVD Administrative Review.

[3] The individual members of RTAC are Nucor Corporation, Gerdau Ameristeel US Inc., Commercial Metals Company, Byer Steel Group, Inc., and Steel Dynamics, Inc.

[4] *See* Petitioner's November 30, 2016 Request for Administrative Review.

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 4294 (January 13, 2017) (*Initiation Notice*).

[6] *See* Petitioner's April 13, 2017 Withdrawal of Requests for Administrative Review.

[7] *See, e.g., Certain Lined Paper Products from India: Notice of Partial Rescission of Countervailing Duty Administrative Review; 2014,* 81 FR 7082 (February 10, 2016).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–991]

Chlorinated Isocyanurates From the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) has completed its administrative review of the countervailing duty (CVD) order on chlorinated isocyanurates (chloro isos) from the People's Republic of China (PRC) for the February 4, 2014, through December 31, 2014, period of review (POR). We have determined that mandatory respondents Heze Huayi Chemical Co., Ltd. (Heze) and Hebei Jiheng Chemical Co., Ltd. (Jiheng), and their cross-owned affiliates, where applicable, received countervailable subsidies during the POR. The final net subsidy rates are listed below in ''Final Results of Administrative Review.'' We are also rescinding the review for Juancheng Kangtai Chemical Co., Ltd. (Kangtai) that timely certified it made no shipments of subject merchandise during the POR.

DATES: Effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Omar Qureshi or Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone 202.482.5307 or 202.482.0486, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 2014, the Department published the CVD *Order* on chloro isos from the PRC.[1] The Department published the *Preliminary Results* of this administrative review in the **Federal Register** on December 13, 2016.[2] We invited interested parties to comment on the *Preliminary Results.* On May 19, 2017, we received case briefs from the petitioners and the Government of China (GOC).[3] On May 24, 2017 we received rebuttal comments from the petitioners, Jiheng, and Heze.[4]

[1] *See Chlorinated Isocyanurates from the People's Republic of China: Countervailing Duty Order,* 79 FR 67424 (November 13, 2014).

[2] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, and Preliminary Intent to Rescind Review, in Part; 2014,* 81 FR 89896 (December 13, 2016) and accompanying Issues and Decision Memorandum (*Preliminary Results*).

[3] *See* Case Brief Submitted to the Record from the Petitioners (May 19, 2017) (the Petitioners' Case Brief); Letter to the Secretary of Commerce from the GOC, ''GOC Administrative Case Brief: First Administrative Review of the Countervailing Duty Order on Chlorinate Isocyanurates from the People's Republic of China (C–570–991)'' (May 19, 2017) (GOC's Case Brief).

[4] *See* Rebuttal Case Brief Submitted to the Record from the Petitioners (May 24, 2017); Letter to the Secretary of Commerce from the GOC, ''GOC Administrative Rebuttal Brief: First Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China (C–570–991) (May 19, 2017) (GOC's Case Brief); Letter to the Secretary of Commerce from Heze, ''Certain Chlorinated

On May 31, 2017, the Department issued the results of its post-preliminary decision on the China Export Import Bank's Export Buyer's Credit Program, and invited comments on the Department's decision. On June 2, 2017, Heze provided comments on the post-preliminary decision.[5] On June 5, 2017, we received rebuttal comments on the post-preliminary decision from the petitioners and the GOC.[6]

Scope of the Order

The products covered by the order are chloro isos, which are derivatives are cyanuric acid, described as chlorinated s-triazine triones.[7] Chloro isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes; the written product description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed is attached to this notice at Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on case briefs, rebuttal briefs, and all supporting documentation, we made changes from the *Preliminary Results.* For Heze, the Department has corrected the average useful life range from 9 to 10 years. The Department also found the Export Buyer's Credit Program to be countervailable and applied an adverse inference in a post-preliminary decision memorandum.[8] However, the Department has adjusted the adverse inference rate in these final results.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[9] The Issues and Decision Memorandum contains a full description of the methodology underlying the Department's conclusions, including any determination that relied upon the use of adverse facts available pursuant to sections 776(a) and (b) of the Act.

Partial Rescission of Administrative Review

As noted in the *Preliminary Results,* the Department timely received a no-shipment response from Kangtai. The Department stated its intention to rescind the review with respect to this company. The Department inquired with U.S. Customs and Border Protection (CBP) whether Kangtai had shipped merchandise to the United States during the POR, and CBP provided no evidence to contradict the claims of no shipments made by this company. Accordingly, the Department is rescinding the administrative review on Kangtai, pursuant to 19 CFR 351.213(d)(3).

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we determine the following net subsidy rates for the 2014 administrative review:

Company	Net subsidy rates (percent *ad valorem*)
Hebei Jiheng Chemical Co., Ltd	21.76
Heze Huayi Chemical Co., Ltd	1.91

Assessment Rates

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after February 4, 2014, through December 31, 2014, at the *ad valorem* rates listed above.

Cash Deposit Instructions

In accordance with section 751(a)(1) of the Act, the Department intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 9, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Decision Memorandum

I. Summary
II. Background
III. List of Interested Party Comments
IV. Scope of the Order
V. Changes Since the Preliminary Results and Post-Preliminary Results

Isocyanurates from China Rebuttal Brief'' (May 24, 2017) (Heze's Rebuttal Brief); Letter to the Secretary of Commerce from Jiheng, ''Certain Chlorinated Isocyanurates from China Rebuttal Brief of Hebei Jiheng Chemical Co., Ltd.'' (May 24, 2017) (Jiheng's Rebuttal Brief).

[5] *See* Letter to the Secretary of Commerce from Heze, ''Certain Chlorinated Isocyanurates from China Comments on Post-Preliminary Results'' (June 2, 2017) (Heze's Post-Prelim Comments).

[6] *See* Letter to the Secretary of Commerce from the Petitioners, ''Chlorinated Isocyanurates from the People's Republic of China: Post-Preliminary Determination Rebuttal Comments'' (June 5, 2017) (the Petitioners' Post-Prelim Rebuttal Comments); Letter to the Secretary of Commerce from the GOC, ''GOC Comments in Response to Post-Prelim Comments: First Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China (C–570–991)'' (June 5, 2017) (GOC's Post-Prelim Rebuttal Comments).

[7] For a complete description of the Scope of the Order, *see Preliminary Results.*

[8] *See* Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Post-Preliminary Results Decision Memorandum'' (May 31, 2017).

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

VI. Partial Rescission of Administrative Review
VII. Subsidies Valuation Information
VIII. Benchmarks
IX. Use of Facts Otherwise Available and Adverse Inferences
X. Programs Determined To Be Countervailable
XI. Programs Determined Not To Confer Measurable Benefits
XII. Programs Determined Not To Be Used During the POR
XIII. Analysis of Comments
XIV. Conclusion

[FR Doc. 2017–12449 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Massachusetts Medical School, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 16–002. Applicant: University of Massachusetts Medical School, Worcester, MA 01655. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: See notice at 81 FR 71702, October 18, 2016.

Docket Number: 16–011. Applicant: Van Andel Research Institute, Grand Rapids, MI 49503. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: See notice at 81 FR 71702–03, October 18, 2016.

Docket Number: 16–012. Applicant: Van Andel Research Institute, Grand Rapids, MI 49503. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: See notice at 81 FR 71702–03, October 18, 2016.

Docket Number: 16–013. Applicant: Van Andel Research Institute, Grand Rapids, MI 49503. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 81 FR 71702–03, October 18, 2016.

Docket Number: 16–015. Applicant: Yale University, New Haven, CT 06520. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: See notice at 81 FR 71702–03, October 18, 2016.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: June 9, 2017.

Gregory W. Campbell,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2017–12407 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Purdue University, et al.; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, DC.

Docket Number: 16–004. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: SGR YAG pulsed laser. Manufacturer: Beamtech Optronics, Co., LTD, China. Intended Use: See notice at 81 FR 71702, October 18, 2016. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used for pulsed laser annealing and nanostructure integrated laser shock peening, to improve the microstructure of thin film for better electrical and optical properties. Requirements for the experiment include three wave lengths (355nm, 532nm, 1064 nm), pulse energy 2J, flat hat beam, and pulse duration tunable from 10ns to 25ns.

Docket Number: 16–008. Applicant: California Institute of Technology, Pasadena, CA 91125. Instrument: Cryogenic Temperature Scanning Tunneling Microscope System. Manufacturer: Unisoku Co., LTD., Japan. Intended Use: See notice at 81 FR 71703, October 18, 2016. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to investigate structural and electrical surface properties with atomic resolution at cryogenic temperatures (−459 Fahrenheit—0.4 K) and high magnetic fields, at which conditions materials can exhibit unusual quantum properties such as topological superconductivity and fractionalization of charge carriers. Experiments to be conducted with the instrument include mapping of the local electronic density of states of gated nanostructures by measuring current—voltage curves at different points, mapping of the electron spin structure using scanning tips made of magnetic materials, and probing the size of the energy gap in topological insulators and topological superconductors. For this type of research an instrument capable of performing scanning tunneling microscopy (STM) and atomic force microscopy (AFM) at cryogenic temperatures and high magnetic fields is essential.

Dated: June 9, 2017.

Gregory W. Campbell,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2017–12406 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF473

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for three new scientific research permits, one permit modification, and four permit renewals.

SUMMARY: Notice is hereby given that NMFS has received eight scientific research permit application requests

relating to Pacific salmon, steelhead, eulachon, green sturgeon, and rockfish. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on July 17, 2017.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov* (include the permit number in the subject line of the fax or email).

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Puget Sound (PS).

Steelhead (*O. mykiss*): Threatened PS.

Chum salmon (*O. keta*): Threatened Hood Canal Summer-run (HCS).

Eulachon (*Thaleichthys pacificus*): Threatened Southern (S).

Green sturgeon (*Acipenser medirostris*): Threatened Southern (S).

Bocaccio (*Sebastes paucispinis*): Endangered Puget Sound/Georgia Basin (PS/GB).

Yelloweye rockfish (*S. ruberrimus*): Threatened PS/GB.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 15848–2R

The Washington Department of Fish and Wildlife (WDFW) is seeking to renew, for five years, a research permit that currently allows them to take juvenile and adult PS Chinook salmon, HCS chum salmon, PS steelhead, and PS/GB bocaccio and adult S green sturgeon in the Puget Sound (Washington State). The WDFW research may also cause them to take juvenile and adult S eulachon and PS/GB yelloweye rockfish—species for which there are currently no ESA take prohibitions. The purpose of the WDFW study is to estimate the relative abundance of bottomfish in Puget Sound and collect information on the distribution and biology of key marine vertebrate and invertebrate resources. The research would benefit the affected species by providing the WDFW with information on encounter rates and species distributions—information that fisheries managers would use to promulgate regulations designed to protect and promote the recovery of listed species and to properly manage non-listed fishery resources. The WDFW proposes to capture fish using a bottom trawl. All captured eulachon, salmonids, and green sturgeon would either be released immediately at the surface or held temporarily in an aerated live well to help them recover before being released. Listed rockfish would be released via rapid submergence to their capture depth to reduce adverse effects from barotrauma. The researchers do not propose to kill any fish but a small number may die as an unintended result of research activities. Some unintentional mortalities may be retained for further analysis.

Permit 15890–2R

The WDFW is seeking to renew, for five years, a research permit that currently allows them to take juvenile and adult PS Chinook salmon, HCS chum salmon, PS steelhead, and PS/GB bocaccio in the Puget Sound (Washington State). The WDFW research may also cause them to take juvenile and adult S eulachon and PS/GB yelloweye rockfish—species for which there are currently no ESA take prohibitions. The purpose of the WDFW study is to estimate abundance and determine other important demographic information for pelagic forage fish in key areas of Puget Sound. The research would benefit both listed and non-listed species by monitoring their relative abundance in Puget Sound and obtaining information on the spatial and temporal locations of all pelagic species in the region. The WDFW proposes to capture fish with a mid-water trawl working in tandem with an acoustic survey boat. All captured salmonids would be sampled (fin clips, sample scale) and either released immediately at the surface or held temporarily in an aerated live well to help them recover before release. All viable eulachon would be released at the surface without sampling. Listed rockfish would have a fin clip collected for genetic analyses and then be released via rapid submergence to their capture depth to reduce adverse effects from barotrauma. The researchers do not propose to kill any fish, but a small number may die as an unintentional result of research activities. Some unintentional mortalities may be retained for further analysis.

Permit 16021–2R

The WDFW is seeking to renew, for five years, a research permit that currently allows them to take juvenile and adult PS Chinook salmon and PS/GB bocaccio and adult S green sturgeon in the Puget Sound (Washington State). The WDFW research may also cause them to take adult S eulachon and juvenile and adult PS/GB yelloweye rockfish—species for which there are currently no ESA take prohibitions. The purpose of the WDFW study is to improve the understanding of groundfish stock structure, life history, biology, geographic distribution, habitat use, and food web relationships. The research would benefit the affected species by providing data critical for population modeling—information that would be used to improve management of Puget Sound groundfish resources. The WDFW proposes to capture fish using hook and line and live-capture traps. All captured salmonids, eulachon, and green sturgeon would either be released immediately at the surface or held temporarily in an aerated live well to help them recover before being released. Listed rockfish would have a fin clip collected for genetic analysis and researchers would attach a floy tag to the fish before releasing them via rapid submergence to their capture depth. After being captured, the listed salmon and steelhead would be placed in aerated live wells, identified, and

released. The researchers do not propose to kill any listed fish being captured, but a small number may die as an unintended result of the activities. Some unintentional mortalities may be retained for further analysis.

Permit 16091–2R

The WDFW is seeking to renew, for five years, a research permit that currently allows them to take juvenile and adult PS Chinook salmon, HCS chum salmon, PS steelhead, and PS/GB bocaccio and adult S green sturgeon in the Puget Sound (Washington State). The WDFW research may also cause them to take juvenile and adult S eulachon and PS/GB yelloweye rockfish—species for which there are currently no ESA take prohibitions. The purpose of the WDFW study is to capture English sole (*Parophrys vetulus*) throughout the Salish Sea to monitor tissue levels of toxic chemical contaminants, frequency of pathological disorders, and biomarkers signifying biological effects. The research would benefit the listed species as well as the target species by providing managers with a better understanding of toxic contaminant impacts on the benthic food web, measuring changes in toxic contaminant levels on a local level, and helping prioritize cleanup efforts. The WDFW proposes to capture fish using a bottom trawl. All captured eulachon, salmonids, and green sturgeon would either be released immediately at the surface or held temporarily in an aerated live well to help them recover before being released. Listed rockfish would be released via rapid submergence to their capture depth to reduce adverse effects from barotrauma. The researchers do not propose to kill any fish but a small number may die as an unintended result of research activities. Some unintentional mortalities may be retained for further analysis.

Permit 20535–2M

The U.S. Army Corps of Engineers (USACE) is seeking to modify a three-year research permit that allows them to annually take juvenile PS Chinook salmon and PS steelhead in the lower Duwamish River (King County, Washington). The USACE research may also cause them to take adult S eulachon—species for which there are currently no ESA take prohibitions. The purpose of the USACE study is to collect starry flounder (*Platichthys stellatus*), shiner surfperch (*Cymatogaster aggregate*), English sole, and Pacific staghorn sculpin (*Leptocottus armatus*) for tissue sampling and PCB congener analysis. The research would benefit the listed species by enhancing managers' understanding of contaminant partitioning within the food web near the Lower Duwamish Waterway Superfund Site. The USACE proposes to capture fish using beach seines. All listed fish are would be captured, handled, and released. The researchers do not propose to kill any listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 21061

Windward Environmental (WE) is seeking a two-year research permit to annually take juvenile and adult PS Chinook salmon and PS steelhead and juvenile PS/GB bocaccio in the lower Duwamish River (King County, Washington). The WE research may also cause them to take juvenile PS/GB yelloweye rockfish—species for which there are currently no ESA take prohibitions. The purpose of the WE study is to establish baseline tissue chemical concentrations for English sole, starry flounder, shiner surfperch, Dungeness crab (*Metacarcinus magister*), and graceful crab (*M. gracilis*) in the lower Duwamish River to assess the progress toward meeting target tissue chemical concentrations identified in the Environmental Protection Agency's (EPA) Record of Decision (ROD). The research would benefit the affected species by helping delineate contaminated areas and using that information to minimize animals' exposure to contaminated sediments by performing sediment remediation designed to protect aquatic wildlife. The WE proposes to capture fish using an otter trawl and crab traps. All listed fish would be captured, handled, and released. The researchers do not propose to kill any listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 21185

The Wild Fish Conservancy (WFC) is seeking a five-year research permit to annually take juvenile PS Chinook salmon and PS steelhead in the Deschutes River watershed and Kitsap Peninsula (Washington State). The purpose of the WFC study is to water-type existing channel classifications in selected sub-basins and floodplain areas to validate and correct Washington Department of Natural Resources (WDNR) classifications. The research would benefit the listed species by filling data gaps regarding fish passage impediments (*i.e.,* tidegates, culverts) and fish species composition and distribution—information needed to responsibly identify, prioritize, and implement restoration projects. The WFC proposes to capture fish using backpack electrofishing equipment. The captured fish would be identified to species, fin clipped (PS steelhead only), and returned to their capture locations. Once fish presence is established, either through visual observation or electrofishing, electrofishing would be discontinued. Surveyors would then proceed upstream until a change in habitat parameters is encountered, at which point the electrofishing would be continued. The researchers do not propose to kill any listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 21330

The U.S. Fish and Wildlife Service (FWS) is seeking a five-year research permit to annual take juvenile PS Chinook salmon and PS steelhead in Jim Creek (South Fork Stillaguamish River watershed; Snohomish County, Washington). The purpose of the FWS study is to document ESA-listed fish presence, distribution, and abundance in Jim Creek within the boundaries of the Naval Radio Station Jim Creek facility. The research would benefit the listed species by refining the facility's Integrated Natural Resources Management plan, guiding decisions regarding habitat restoration, and helping fill data gaps in the distribution and abundance of ESA-listed PS Chinook, PS steelhead, and bull trout (*Salvelinus confluentus*). The FWS proposes to capture fish using backpack electrofishing equipment. The captured fish would be removed from the water using a dip net, placed in aerated buckets, anesthetized with MS–222, identified to species, weighed, measured, allowed to recover, and returned to their capture locations. The researchers do not propose to kill any listed fish being captured, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: June 12, 2017.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–12433 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF278

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene three Stock Assessment Review (STAR) panels this year to review new stock assessments for lingcod, Pacific ocean perch, yelloweye rockfish, yellowtail rockfish, blue rockfish, deacon rockfish, and California scorpionfish. These STAR panel meetings are open to the public. The STAR panel meetings will also be streamed online for those who want to follow the proceedings remotely.

DATES: The STAR panel meeting to review new assessments for lingcod and Pacific ocean perch (STAR Panel 1) will be held Monday, June 26, 2017, from 8:30 a.m. until 5:30 p.m. (Pacific Standard Time) or when business for the day has been completed. The panel will reconvene on Tuesday, June 27 and will continue through Friday, June 30, 2017 beginning at 8:30 a.m. and ending at 5:30 p.m. each day, or when business for the day has been completed.

The STAR panel meeting to review new assessments for yelloweye rockfish and yellowtail rockfish (STAR Panel 2) will be held Monday, July 10, 2017, from 8:30 a.m. until 5:30 p.m. (Pacific Standard Time) or when business for the day has been completed. The panel will reconvene on Tuesday, July 11 and will continue through Friday, July 14, 2017 beginning at 8:30 a.m. and ending at 5:30 p.m. each day, or when business for the day has been completed.

The STAR panel meeting to review new assessments for blue rockfish, deacon rockfish (it is anticipated this will be a single assessment of blue and deacon rockfish in combination), and California scorpionfish (STAR Panel 3) will be held Monday, July 24, 2017, from 8:30 a.m. until 5:30 p.m. (Pacific Standard Time) or when business for the day has been completed. The panel will reconvene on Tuesday, July 25 and will continue through Friday, July 28, 2017 beginning at 8:30 a.m. and ending at 5:30 p.m. each day, or when business for the day has been completed.

ADDRESSES: STAR Panel 1 and STAR Panel 2 will be held in the Auditorium at the NMFS, Northwest Fisheries Science Center, 2725 Montlake Boulevard E, Seattle, WA 98112; telephone: (206) 860–3200. STAR Panel 3 will be held at the NMFS, Southwest Fisheries Science Center, Santa Cruz Laboratory, 110 McAllister Way, Santa Cruz, CA 95060; telephone: (831) 420–3900.

To attend the webinar, visit: *http://www.gotomeeting.com/online/webinar/join-webinar.* Enter the Webinar ID, which is 782–299–523, and your name and email address (required). After logging into the webinar, dial the TOLL number (not a toll-free number) which will be provided to you after the webinar is launched; you must use your telephone for the audio portion of the meeting. Then enter the Attendee phone audio access code: 432–847–759, then enter your audio phone pin (shown after joining the webinar). **Note:** We have disabled Mic/Speakers on *GoToMeeting* as an option and require all participants to use a telephone or cell phone to participate. The *GotoMeeting* broadcast is not a substitute for attending the STAR panel meetings in person. You will not be able to communicate with others or offer public comment using the webinar connection. We strive to make this service fully available, but due to unforeseen technical issues (internet/power outages, *GoToMeeting* service issues, etc.), this service may not be available during portions of the STAR panel meetings.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey Miller, NMFS Northwest Fisheries Science Center; telephone: (541) 867–0535; or Mr. John DeVore, Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the STAR Panels is to review draft 2017 stock assessment documents and any other pertinent information for new benchmark stock assessments for lingcod, Pacific ocean perch, yelloweye rockfish, yellowtail rockfish, blue rockfish, deacon rockfish, and California scorpionfish; work with the Stock Assessment Teams to make necessary revisions; and produce STAR Panel reports for use by the Pacific Council family and other interested persons for developing management recommendations for fisheries in 2019 and beyond. No management actions will be decided by the STAR Panels. The STAR Panel participants' role will be development of recommendations and reports for consideration by the Pacific Council at its September meeting in Boise, ID.

Although nonemergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Action 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 Fishery Conservation and Management Act, provided the public has been notified of the intent of the STAR panels to take final action to address the emergency.

Visitors who are foreign nationals (defined as a person who is not a citizen or national of the United States) will require additional security clearance to access the NMFS Northwest Fisheries Science Center. Foreign national visitors should contact Ms. Stacey Miller at 541–867–0535 at least two weeks prior to the meeting date to initiate the security clearance process.

Technical Information and System Requirements

PC-based attendees: Windows® 7, Vista, or XP operating system required. *Mac®-based attendees:* Mac OS® X 10.5 or newer required. *Mobile attendees:* iPhone®, iPad®, Android™ phone or Android tablet required (use *GoToMeeting* Webinar Apps).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (503) 820–2280 at least 10 days prior to the meeting date.

Dated: June 12, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–12429 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF434

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Space Vehicle and Missile Launch Operations

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

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the Alaska Aerospace Corporation (AAC), for the take of marine mammals incidental to space vehicle and missile launch operations at the Pacific Spaceport Complex Alaska (PSCA) on Kodiak Island, Alaska.

DATES: Effective from May 11, 2017, to April 25, 2022.

ADDRESSES: The LOA and supporting documents may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Regulations governing the taking of harbor seals (*Phoca vitulina richardii*), by Level B harassment, incidental to AAC's space vehicle and missile launch operations at the PSCA, were issued on March 24, 2017 (82 FR 14996) and remain in effect until April 25, 2022. For detailed information on the action, please refer to that document. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during space vehicle and missile launch operations at the PSCA.

Summary of Request

On April 25, 2016, NMFS received a request for regulations and subsequent LOA from AAC for the taking of small numbers of marine mammals incidental to space vehicle and missile launch operations at the PSCA. NMFS has previously issued regulations and subsequent LOAs to AAC authorizing the taking of marine mammals incidental to launches at PSCA (76 FR 16311; March 23, 2011 and 71 FR 4297; January 26, 2006). AAC has complied with the measures required in 50 CFR 217.70–75, as well as the associated LOAs, and submitted monitoring reports and other documentation required by the previous regulations and LOAs.

Orbital and suborbital launch vehicles (*i.e.,* rockets, missiles) are launched from PSCA as part of the aerospace industry. AAC estimates the total number of vehicles that may be launched over the course of the 5-year period covered by the regulations is 45, with a maximum of 9 launches per year. AAC's operations produce noise that may result in Level B harassment of harbor seals that are hauled out on Ugak Island, just south of the launch site. A maximum of 315 harbor seals annually could be taken by Level B harassment with 1,575 harbor seals taken over the 5-year effective period of the regulations. AAC expects to conduct the same type and amount of launches as in previous rules. Similarly, the authorized take will remain within the annual estimates analyzed in the final rule making.

Authorization

We have issued an LOA to AAC authorizing the take of marine mammals incidental to space vehicle and missile launch operations, as described above. Take of marine mammals will be minimized through implementation of mitigation measures designed to reduce impacts on pinnipeds by not approaching haulouts within a certain horizontal and vertical distance during security overflights and also using the launch pad equipped with a concrete and water-filled flame trench to absorb light and noise at lift off for all Castor 120-equivalent launches (*i.e.,* the loudest rocket used by AAC). Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The AAC will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: June 9, 2017.

Donna S. Wieting,

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

[FR Doc. 2017–12355 Filed 6–14–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF17–4–000]

Jordan Cove Energy Project, L.P., Pacific Connector Gas Pipeline, L.P.; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Jordan Cove LNG Terminal and Pacific Connector Pipeline Projects, Request for Comments on Environmental Issues, and Notice of Public Scoping Sessions

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the impacts of the planned Jordan Cove LNG Terminal and Pacific Connector Pipeline Projects (collectively referred to as the Project). The FERC is the lead federal agency for the preparation of the EIS. The U.S. Army Corps of Engineers (USACE), U.S. Department of Energy (DOE), Bureau of Land Management (BLM), Bureau of Reclamation (Reclamation), U.S. Forest Service (Forest Service), and the Bonneville Power Administration (BPA) are Cooperating Agencies and can adopt the EIS for their respective purposes and permitting actions.

Jordan Cove Energy Project, L.P. (JCEP) plans to construct and operate a liquefied natural gas (LNG) production, storage, and export facility in Coos County, Oregon. Pacific Connector Gas Pipeline, L.P. (PCGP) plans to construct and operate an interstate natural gas transmission pipeline and associated facilities in Coos, Douglas, Jackson, and Klamath Counties, Oregon. The Commission will use this EIS in its decision-making process to determine whether the Jordan Cove LNG Terminal is in the public interest and the Pacific Connector Pipeline is in the public convenience and necessity. Other federal agencies may adopt the EIS when making their respective determinations or decisions.

This notice announces the opening of the public comment period, commonly referred to as scoping. You can make a difference by providing your comments. Your comments should focus on potential environmental impacts, reasonable alternatives, and measures to avoid or lessen environmental impacts. This scoping opportunity is for the entire Project, including actions and proposed plan amendments of the Cooperating Agencies listed above. The Forest Service also seeks comments specific to the 2012 planning rule requirements at §§ 219.8 through 219.11 that are likely to be directly related to the proposed amendments. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before July 10, 2017.

If you submitted comments on this project before February 10, 2017, you will need to refile those comments in FERC Docket No. PF17–4–000 to ensure they are considered as part of this proceeding. If you sent comments on a previous iteration of this project, you will also need to refile those comments in FERC Docket No. PF17–4–000.

This notice is being sent to the Commission's current environmental mailing list for the Project. State and local government representatives should notify their constituents of this project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a PCGP company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned pipeline. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you by phone at (202) 502–8258 or via email at *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded. If you include personal information along with your comments, please be aware that this information (address, phone number, and/or email address) would become publicly available in the Commission's eLibrary.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to include docket number PF17–4–000 with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one the public scoping sessions its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Tuesday, June 27, 2017, 4:00 p.m. to 7:00 p.m.	Sunset Middle School, Library and Commons Rooms, 245 South Cammann Street, Coos Bay, OR 97420
Wednesday, June 28, 2017, 4:00 p.m. to 7:00 p.m.	Umpqua Community College, Jackson Hall, Rooms 11 & 12, 1140 Umpqua College Road, Roseburg, OR 97470
Thursday, June 29, 2017, 4:00 p.m. to 7:00 p.m.	Oregon Institute of Technology, College Union Building, Mt. Bailey and Mt. Theilsen Rooms, 3201 Campus Drive, Klamath Falls, OR 97601

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the EIS to be prepared for this project. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments in a convenient way during the timeframe allotted.

Each scoping session is scheduled from 4:00 p.m. to 7:00 p.m. Pacific Daylight Time. There will be no formal presentation by Commission staff when the session opens. If you wish to provide comments, the Commission staff will issue numbers in the order of your arrival. Please see Appendix 2 [1] for additional information on the session format and conduct expectations.

Your comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available through the FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments, a time limit of 5 minutes may be implemented for each commenter.

Verbal comments hold the same weight as written or electronically submitted comments. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process.

The submission of timely and specific comments, whether submitted in writing or orally at a scoping session, can affect a reviewer's ability to participate in a subsequent administrative or judicial review of BLM and/or Forest Service decisions. Comments concerning BLM and Forest Service actions submitted anonymously will be accepted and considered; however such anonymous submittals would not provide the commenters with standing to participate in administrative or judicial review of BLM and Forest Service decisions.

Summary of the Planned Project

JCEP plans to construct and operate an LNG export terminal on the North Spit of Coos Bay in Coos County, Oregon. The terminal would include gas inlet facilities, a metering station, a gas conditioning plant, five liquefaction trains and associated equipment, two full-containment LNG storage tanks, an LNG transfer line, LNG ship loading facilities, a marine slip, a marine offloading facility, a new access channel between the Coos Bay Navigation Channel and the new marine slip, and enhancements to the existing Coos Bay Navigation Channel at four turns. In addition, the terminal would include emergency and hazard, electrical, security, control, and support systems, administrative buildings, and a temporary workforce housing facility. The LNG terminal would be designed to liquefy about 1.04 billion cubic feet per day of LNG for export to markets across the Pacific Rim.

PCGP plans to construct and operate an approximately 235-mile-long, 36-inch-diameter interstate natural gas transmission pipeline and associated aboveground facilities. The pipeline would originate near Malin in Klamath County, Oregon, traverse Douglas and Jackson Counties, and terminate (at the LNG Terminal) in Coos County, Oregon. The pipeline would be capable of transporting about 1.2 billion cubic feet per day of natural gas. The associated aboveground facilities would include the new Klamath Compressor Station (61,500 horsepower) near Malin, Oregon; 3 new meter stations; 5 new pig launchers and receivers; 17 mainline block valves; and a gas control communication system.

The general locations of the Project facilities are shown on maps included in Appendix 1. In addition, PCGP provides detailed mapping of its pipeline route on its Web page at *http://pacificconnectorgp.com/project-overview/.*

Land Requirements for Construction

About 530 acres of land would be disturbed by construction of the LNG Terminal. JCEP owns about 300 acres of this land, and the remaining 230 acres would be leased from private landowners. Following construction, about 170 acres would be retained for operation of the LNG terminal facilities.

About 5,060 acres of land would be disturbed by construction of the Pacific Connector Pipeline Project. Following construction, a 50-foot-wide easement, totaling about 1,415 acres, would be permanently maintained for operation of the pipeline. The majority of the remaining 3,620 acres disturbed by pipeline construction would be restored and returned to previous use, while about 25 acres would be maintained for a new compressor station and other new aboveground facilities. Land ownership of the approximately 235 miles of permanent pipeline operational easement is approximately 162 miles private land, 40 miles BLM, 31 miles Forest Service, and 2 miles Reclamation.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the authorization of LNG facilities under Section 3 of the Natural Gas Act and pipeline facilities under Section 7 of the Natural Gas Act. NEPA also requires the Commission to discover and address concerns the public may have about proposals. This process is commonly referred to as scoping. The main goal of the scoping process is to identify the important environmental issues the Commission's staff should focus on in the EIS. By this notice, the Commission requests public comments on the scope of issues to be addressed in the EIS. The FERC and the Cooperating Agencies will consider all filed comments during the preparation of the EIS.

The EIS will discuss the impacts that could occur as a result of the construction and operation of the planned Project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation, fisheries, and wildlife;
- protected species;
- land use;
- socioeconomics;
- cultural resources;
- air quality and noise;
- public safety and reliability; and
- cumulative impacts.

The FERC and the Cooperating Agencies will also evaluate reasonable alternatives to the planned project or portions thereof; and make recommendations on how to avoid or minimize impacts on the various resource areas.

Although no formal application has been filed with FERC, FERC has already initiated a review of the project under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of its pre-filing review, FERC has begun to contact interested federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

As stated previously, the FERC will be the lead federal agency for the

[1] The appendices referenced in this notice will not appear in the **Federal Register.** Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

preparation of the EIS. The USACE, BLM, Reclamation, and Forest Service all have NEPA responsibilities related to their respective permitting actions, and can adopt the EIS for their own agency's purposes. The BLM, Reclamation, and Forest Service intend to adopt this EIS to evaluate the effects of the pipeline portion of the Project on lands and facilities managed by each respective agency, and to support decision-making regarding the issuance of and concurrence with the right-of-way grant and the associated plan amendments.[2]

The EIS will present the FERC's and the Cooperating Agencies' independent analysis of the issues. The FERC will publish and distribute the draft EIS for public comment. After the comment period, the FERC and the Cooperating Agencies will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure the FERC and the Cooperating Agencies have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section.

With this notice, the FERC is asking agencies with jurisdiction by law and/or special expertise with respect to environmental issues related to this project to formally cooperate with us in the preparation of the EIS.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided in the Public Participation section.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, this notice initiates consultation with Oregon's State Historic Preservation Office (SHPO), and solicits its views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] The project-specific Area of Potential Effects (APE) will be defined in consultation with the SHPO as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include LNG terminal site, pipeline construction work area, contractor/equipment storage yards, and access roads). The EIS for this Project will document the findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

The Commission's environmental staff has already identified several issues that merit attention based on a preliminary review of the planned facilities, the environmental information provided by the applicants, analysis conducted previously, and early comments filed with FERC. This preliminary list of issues may change based on your comments and further analysis. Preliminary issues include:

- Reliability and safety of LNG carrier traffic in Coos Bay, the LNG terminal, and natural gas pipeline;
- impacts on aquatic resources from dredging the LNG terminal access channel and slip, and from multiple pipeline crossings of surface waters;
- potential impacts on the LNG Terminal resulting from an earthquake or tsunami;
- impacts of pipeline construction on federally listed threatened and endangered species, including salmon, marbled murrelet, and northern spotted owl; and
- impacts of pipeline construction on private landowners, including use of eminent domain to obtain right-of-way.

Preliminary Planning Criteria Identified by the BLM

The BLM Preliminary Planning Criteria for its proposed land management plan amendments include:

- Impacts to stand function for listed species, specifically northern spotted owl and marbled murrelet in BLM-managed Late Successional Reserves (LSR); and
- consent by the Federal surface managing agencies, Forest Service and Reclamation.

Preliminary Issues and Planning Criteria Identified by the Forest Service

The Forest Service has identified preliminary issues for its proposed land and resource management plan (LRMP) amendments. The issues include:

- Effects of proposed amendments on Survey and Manage species and their habitat;
- effects of the proposed amendments on LSRs; and
- effects of the proposed amendments on Riparian Reserves, detrimental soil conditions, and Visual Quality Objectives.

Planning Rule Requirements for LRMP Amendments

The Forest Service seeks public input on issues and planning rule requirements on proposed amendments of their Forest land management plans related to the Pacific Connector Pipeline Project. Additional information regarding the proposed amendments is included at the end of this NOI.

Proposed Actions of the BLM

The purpose of and need for the proposed action by the BLM is to respond to a right-of-way grant application originally submitted by Pacific Connector L.P. to construct, operate, maintain, and eventually decommission a natural gas pipeline that crosses lands and facilities administered by the BLM, Reclamation, and Forest Service. In addition, there is a need for the BLM to consider amending affected District land management plans to make provision for the Pacific Connector right-of-way. Additional detail on proposed actions by the BLM is provided at the end of this NOI.

Proposed Actions of the Forest Service

The purpose of and need for the proposed action by the Forest Service is to consider amending affected National Forest land management plans to make provision for the Pacific Connector right-of-way. The Responsible Official for amendment of Forest Service LRMPs is the Forest Supervisor of the Umpqua National Forest. If the Forest Service adopts the FERC EIS for the Pacific Connector Pipeline Project (in FERC Docket No. PF17–4–000), the Forest Supervisor of the Umpqua National Forest will make the following decisions and determinations:

- Decide whether to amend the LRMPs of the Umpqua, Rogue River, and Winema National Forests as proposed or as described in an alternative.

Additional detail on proposed actions by the Forest Service is provided at the end of this NOI.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other

[2] BLM land management plans are called ''Resource Management Plans'' or RMPs. Forest Service land management plans are called ''Land and Resource Management Plans'' or LRMPs. The term ''land management plan'' is generic and may apply to either an RMP or LRMP.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations), whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. The FERC will update the environmental mailing list as the analysis proceeds to ensure that the information related to this environmental review is sent to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of a compact disc or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once JCEP and PCGP file applications with the Commission, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

BLM Administrative Remedy Process

Under the provisions of 43 CFR 1610.5–2, proposed decision(s) of the BLM to amend land management plans are subject to protest with the Director of the BLM following publication of the Final EIS. In accordance with 43 CFR, Part 4, the BLM's decision on the application for a right-of-way grant will be subject to appeal to the Interior Board of Land Appeals.

Administrative Review of Forest Service Decisions To Amend Land Management Plans

The proposed Forest Service plan amendments are being developed in accordance with the planning regulations at 36 CFR 219 (2012). Decisions by the Forest Service to approve ''plan level'' amendments to Land Management Plans (proposed amendments UNF–4 and RRNF–7 in this Notice) are subject to the Pre-Decisional Administrative Review Process Regulations at 36 CFR 219 Subpart B. The term ''plan level'' refers to plan amendments that would apply to future management actions.

Decisions by the Forest Service to approve ''project-specific'' plan amendments (proposed amendments UNF–1 thru 3, RRNF–2 thru 6, and WNF–1 thru 5 in this Notice) are subject to the Administrative Review Process of 36 CFR 218 Subpart A and B, in accordance with 36 CFR 219.59 (b). The term ''project specific'' refers to amendments that would only apply to the proposed project and would not apply to any future management actions.

The Forest Service concurrence to BLM to issue a right-of-way grant would not be a decision subject to the NEPA and, therefore, would not be subject to the Forest Service administrative review procedures.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF17–4). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12393 Filed 6–14–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–128–000.

Applicants: Beech Ridge Energy LLC, Beech Ridge Energy II LLC, Beech Ridge Energy Storage LLC, Bishop Hill Energy III LLC, Bishop Hill Interconnection LLC, Buckeye Wind Energy LLC, Forward Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Grand Ridge Energy Storage LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Invenergy TN LLC, Judith Gap Energy LLC, Prairie Breeze Wind Energy II LLC, Prairie Breeze Wind Energy III LLC, Sheldon Energy LLC, Spring Canyon Energy LLC, Stony Creek Energy LLC, Vantage Wind Energy LLC, Willow Creek Energy LLC, Wolverine Creek Energy LLC, Wolverine Creek Goshen Interconnection LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Beech Ridge Energy LLC, *et al.*

Filed Date: 6/8/17.

Accession Number: 20170608–5182.

Comments Due: 5 p.m. ET 6/29/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1167–001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: NYISO filing re: Effective date notice—MST Attachment K revisions to be effective 6/22/2017.

Filed Date: 6/8/17.

Accession Number: 20170608–5149.

Comments Due: 5 p.m. ET 6/29/17.

Docket Numbers: ER17–1226–001.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.

Description: Compliance filing: 2017–06–08_Filing to update Entergy New Orleans (ENO) Attachment O to be effective 6/1/2017.

Filed Date: 6/8/17.

Accession Number: 20170608–5119.

Comments Due: 5 p.m. ET 6/29/17.

Docket Numbers: ER17–1778–000.

Applicants: HD Project One LLC.

Description: Baseline eTariff Filing: MBRA Tariff to be effective 6/9/2017.

Filed Date: 6/8/17.

Accession Number: 20170608–5120.

Comments Due: 5 p.m. ET 6/29/17.

Docket Numbers: ER17–1779–000.

Applicants: The Connecticut Light and Power Company.

Description: Notice of Cancellation of The Connecticut Light and Power Company Interconnection Service Agreement No. 101.

Filed Date: 6/8/17.

Accession Number: 20170608–5143.

Comments Due: 5 p.m. ET 6/29/17.

Docket Numbers: ER17–1780–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–06–09_SA 1677 Illinois Power-Ameren Amended GIA (G436 G983 G984) to be effective 5/25/2017.

Filed Date: 6/9/17.

Accession Number: 20170609–5039.

Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1781–000.

Applicants: ArcLight Energy Marketing, LLC.

Description: Tariff Cancellation: Notice of Cancellation to be effective 6/30/2017.

Filed Date: 6/9/17.

Accession Number: 20170609–5054.

Comments Due: 5 p.m. ET 6/30/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–34–000.

Applicants: Central Maine Power Company.

Description: Application of Central Maine Power Company for Authorization to Issue Short-Term Debt Under Section 204 of the Federal Power Act.

Filed Date: 6/8/17.

Accession Number: 20170608–5184.

Comments Due: 5 p.m. ET 6/29/17.

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: June 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12390 Filed 6–14–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–19–000]

Valley Crossing Pipeline, LLC; Notice of Schedule for Environmental Review of the Border Crossing Project

On November 21, 2016, Valley Crossing Pipeline, LLC (Valley Crossing) filed an application in Docket No. CP17–19–000 pursuant to Section 3 of the Natural Gas Act seeking authorization and the issuance of a Presidential Permit to construct and operate certain natural gas transmission facilities for the purpose of exporting natural gas between the United States and Mexico. The proposed project is known as the Border Crossing Project (Project). The Project would deliver/export up to 2.6 billion cubic feet per day of natural gas to Mexico to serve electrical generation plants.

On December 2, 2016, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA June 30, 2017.

90-day Federal Authorization Decision Deadline September 28, 2017.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Valley Crossing proposes to construct and operate an approximately 1,000-foot-long, 42-inch-diameter, natural gas transmission pipeline segment across the international boundary between the United States and Mexico that is under the Commission's jurisdiction. The Border Crossing Project would connect the non-jurisdictional Valley Crossing System with the Mexican Marina Pipeline. The international boundary crossing would occur in Texas state waters, approximately 30 miles east of Brownsville, Texas.

Background

On January 27, 2017, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Border Crossing Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to federal, state, and local government agencies; elected officials; and other interested parties. In response to the NOI, commenters expressed concerns regarding water quality, methane pollution, aquatic/marine life including threatened and endangered species, pipeline integrity, climate change, and cumulative impacts.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP17–19), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: June 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12392 Filed 6–14–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR17–45–000.
Applicants: Liberty Utilities (Midstates Natural Gas) Corp.
Description: Tariff filing per 284.123(b),(e)/: Application for Revised Rates Filing to be effective 6/10/2016; Filing Type: 980.
Filed Date: 6/2/17.
Accession Number: 201706025156.
Comments/Protests Due: 5 p.m. ET 6/23/17.

Docket Numbers: RP17–803–001.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.205(b): Amendment to Filing in RP17–803–000 to be effective 6/1/2017.
Filed Date: 06/02/2017.
Accession Number: 20170602–5040.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, June 14, 2017.

Docket Numbers: RP17–817–001.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company submits tariff filing per 154.205(b): Amendment to RP17–817–000 to be effective 6/1/2017.
Filed Date: 06/02/2017.
Accession Number: 20170602–5148.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, June 14, 2017.

Docket Numbers: RP17–821–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendment to Neg Rate Agmt (FPL 41618–27) to be effective 6/1/2017.
Filed Date: 06/02/2017.
Accession Number: 20170602–5041.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, June 14, 2017.

Docket Numbers: RP17–822–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendments to Neg Rate Agmts (ExGen 43197–6, 43198–7) to be effective 6/2/2017.
Filed Date: 06/05/2017.
Accession Number: 20170605–5029.
Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

Docket Numbers: RP17–823–000.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits tariff filing per 154.204: Negotiated Rate—Range to Calpine—contract 8946298 to be effective 6/3/2017.
Filed Date: 06/05/2017.
Accession Number: 20170605–5193.
Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

Docket Numbers: RP17–824–000.
Applicants: Eastern Shore Natural Gas Company.
Description: Eastern Shore Natural Gas Company submits tariff filing per 154.204: Fuel Retention and Cash-Out Adjustment to be effective 7/1/2017.
Filed Date: 06/05/2017.
Accession Number: 20170605–5194.
Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12394 Filed 6–14–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–129–000.
Applicants: Virginia Electric and Power Company.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Requests for Waivers, Shortened Comment Period and Expedited Consideration of Virginia Electric and Power Company.
Filed Date: 6/9/17.
Accession Number: 20170609–5141.
Comments Due: 5 p.m. ET 6/30/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1782–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2017–06–09 Amended and Restated Participating Generator Agreement Energia Azteca to be effective 8/9/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5081.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1783–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC RS Nos. 315, 316, 317 and 335 Revised PPA Filing to be effective 7/1/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5082.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1784–000.
Applicants: NRG Delta LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 6/10/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5099.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1785–000.
Applicants: Coachella Wind, LLC.
Description: Baseline eTariff Filing: MBR Application to be effective 12/31/9998.
Filed Date: 6/9/17.
Accession Number: 20170609–5109.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1786–000.
Applicants: SWG Arapahoe, LLC.
Description: § 205(d) Rate Filing: Changes to Market Based Rate Tariff to be effective 6/12/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5117.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1787–000.
Applicants: Innovative Solar 37, LLC.
Description: Compliance filing: Notice of Change in Status and Amendment to Tariff to be effective 5/11/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5127.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1788–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2017–06–07 Pre-RA Import Commitment Definition Modification Amendment to be effective 7/10/2017.
Filed Date: 6/9/17.

Accession Number: 20170609–5128.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1789–000.
Applicants: Interstate Power and Light Company.
Description: § 205(d) Rate Filing: IPL Changes in Depreciation Rates for Wholesale Production Service to be effective 8/8/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5132.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1790–000.
Applicants: United Energy Trading, LLC.
Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 8/8/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5134.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1791–000.
Applicants: Fountain Valley Power, L.L.C.
Description: § 205(d) Rate Filing: Changes to Market Based Rate Tariff to be effective 6/12/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5136.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1792–000.
Applicants: SWG Colorado, LLC.
Description: § 205(d) Rate Filing: Changes to Market Based Rate Tariff to be effective 6/12/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5137.
Comments Due: 5 p.m. ET 6/30/17.

Docket Numbers: ER17–1793–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–06–09_HVDC Attachment X Filing to be effective 6/16/2017.
Filed Date: 6/9/17.
Accession Number: 20170609–5139.
Comments Due: 5 p.m. ET 6/30/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17–673–000.
Applicants: Beaver Creek Wind II, LLC.
Description: Response of Beaver Creek Wind II, LLC to May 10, 2017 Deficiency Letter.
Filed Date: 6/9/17.
Accession Number: 20170609–5124.
Comments Due: 5 p.m. ET 6/9/17.

Docket Numbers: QF17–674–000.
Applicants: Beaver Creek Wind III, LLC.
Description: Response of Beaver Creek Wind III, LLC to May 10, 2017 Deficiency Letter.
Filed Date: 6/9/17.
Accession Number: 20170609–5123.
Comments Due: 5 p.m. ET 6/9/17.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM17–5–000.
Applicants: East Kentucky Power Cooperative, Inc.
Description: Application to Terminate Mandatory PURPA Purchase Obligation of East Kentucky Power Cooperative, Inc.
Filed Date: 6/9/17.
Accession Number: 20170609–5119.
Comments Due: 5 p.m. ET 7/7/17.

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: June 9, 2017 .

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12391 Filed 6–14–17; 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: RP17–825–000.
Applicants: Alliance Pipeline L.P.
Description: Alliance Pipeline L.P. submits tariff filing per 154.204: Energy America to Direct Energy Business Marketing, LLC to be effective 6/1/2017.
Filed Date: 06/06/2017.
Accession Number: 20170606–5146.
Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

Docket Numbers: RP17–826–000.
Applicants: Equitrans, L.P.
Description: Equitrans, L.P. submits tariff filing per 154.203: Notice Regarding Continued Gathering Service (F–543 W–4672 W–4665).

Filed Date: 06/06/2017.

Accession Number: 20170606–5150.

Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

Docket Numbers: RP17–549–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.501: Fuel Refund Report in Docket No. RP17–549.

Filed Date: 06/07/2017.

Accession Number: 20170607–5067.

Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

Docket Numbers: RP17–827–000.

Applicants: Stagecoach Pipeline & Storage Company LL.

Description: Stagecoach Pipeline & Storage Company LLC submits tariff filing per 154.204: Stagecoach Pipeline & Storage Company LLC—Service Agreement Amendments to be effective 7/1/2017.

Filed Date: 06/07/2017.

Accession Number: 20170607–5048.

Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

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 June 08, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12389 Filed 6–14–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1080]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 14, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1080.

Title: Collections for the Prevention or Elimination of Interference and for the Reconfiguration of the 800 MHz Band.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents and Responses: 428 respondents; 2,143 responses.

Estimated Time per Response: 0.5 hours–10 hours (4.5 hours average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154, 160, 251–254, 303, and 332.

Total Annual Burden: 7,411 hours.

Total Annual Cost: $7,200.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will work with respondents to ensure that their concerns regarding the confidentiality of any proprietary or public safety-sensitive information are resolved in a manner consistent with the Commission's rules. See 47 CFR 0.459.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management Budget (OMB) after this 60-day comment period in order to obtain the full three year clearance from them. The information sought will assist 800 MHz licensees in preventing or resolving interference and enable the Commission to implement its rebanding program. Under that program, certain licensees are being relocated to new frequencies in the 800 MHz band, with all rebanding costs paid by Sprint Nextel Corporation (Sprint). The Commission's overarching objective in this proceeding is to eliminate interference to public safety communications. The Commission's orders provided for the 800 MHz licensees in non-border areas to complete rebanding by June 26, 2008. This completion date was not met and the Commission orders also provide for rebanding to be completed in the areas along the U.S. borders with Canada and Mexico.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12350 Filed 6–14–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee, Diversity and Digital Empowerment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Federal Communications Commission announces its intent to establish a Federal Advisory Committee, known as the ''Advisory Committee on Diversity and Digital Empowerment'' (hereinafter ''the Committee'').

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jamila Bess Johnson, Designated Federal Officer, Federal Communications Commission, Media Bureau, (202) 418–2608 or email: *Jamila-Bess.Johnson@fcc.gov,* or Brenda Villanueva, the Deputy Designated Federal Officer, at 202–418–7005 or *Brenda.Villanueva@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Chairman of the Federal Communications Commission (Commission) has determined that establishment of the Committee is necessary and in the public interest in connection with the performance of duties imposed on the Commission by law, and the Committee Management Secretariat, General Services Administration, concurs with the establishment of the Committee. The purpose of the Committee is to make recommendations to the Commission on

how to empower disadvantaged communities and accelerate the entry of small businesses, including those owned by women and minorities, into the media, digital news and information, and audio and video programming industries, including as owners, suppliers, and employees. It is also to provide recommendations to the Commission on how to ensure that disadvantaged communities are not denied the wide range of opportunities made possible by next- generation networks. This Committee is intended to provide an effective means for stakeholders with interests in these areas to exchange ideas and develop recommendations to the Commission on media ownership and procurement opportunities, empowering communities in order to spur educational, economic, and civic development, and consumer access to digital technologies.

Advisory Committee

The Committee will be organized under, and will operate in accordance with, the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App.2). The Committee will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the Committee will be open to the public unless otherwise noticed. A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. All activities of the Committee will be conducted in an open, transparent, and accessible manner. The Committee shall terminate two (2) years from the filing date of its charter, or earlier upon the completion of its work as determined by the Chairman of the FCC, unless its charter is renewed prior to the termination date. During the Committee's first term, it is anticipated that the Committee will meet in Washington, DC approximately two (2) times a year. The first meeting date and agenda topics will be described in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date. In addition, as needed, working groups or subcommittees (ad hoc or steering) will be established to facilitate the Committee's work between meetings of the full Committee. Meetings of the Committee will be fully accessible to individuals with disabilities.

Accessible Formats: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), 1–888–835–5322 (TTY).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–12351 Filed 6–14–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1161]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 14, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1161.

Title: Construction requirements; Interim reports—Sections 27.14(g)–(l).

Form Number: N/A.

Type of Review: Extension of currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,118 respondents; 1,118 responses.

Estimated Time per Response: 5–15 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for, these collections are contained in 47 U.S.C. 154, 301, 302(a), 303, 309, 332, 336, and 337 unless otherwise noted.

Total Annual Burden: 11,260 hours.

Total Annual Cost: $1,893,700.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On July 31, 2007, the Commission adopted a Second Report and Order, in WT Docket No. 06–150, CC Docket No. 94–102, WT Docket No. 01–309, WT Docket No. 03–264, WT Docket No. 06–169, PS Docket No. 06–

229, WT Docket No. 96–86, WT Docket No. 07–166, FCC No. 07–132 (2007 Report and Order), which established rules governing wireless licenses in the 700 MHz spectrum. The 700 MHz spectrum was made available for wireless services, including public safety and commercial services, as a result of the digital television (''DTV'') transition. Title III of the Deficit Reduction Act of 2005 (''DRA''), Public Law 109–171, 120 Stat. 4 (2006), (titled the Digital Television Transition and Public Safety Act of 2005 [''DTV Act'']), accelerated the DTV transition completion date to February 17, 2009.

In light of the change to the DTV transition, as well as developments in commercial wireless communications and evolving needs of the public safety community, the Commission re-examined its 700 MHz rules and combined the following three interrelated proceedings: (1) The 700 MHz Commercial Services proceeding, 71 FR 48506 (2006), (2) the 700 MHz Guard Bands proceeding, 71 FR 57455, and (3) the 700 MHz Public Safety proceeding, 72 FR 1201 (2007); 71 FR 17786 (2006), which yielded in April 2007 both a Report and Order and Further Notice of Proposed Rulemaking (the 700 MHz Report and Order, 72 FR 27688 (2007), and 700 MHz Further NPRM, 72 FR 24238 (2007), respectively. (See FCC 07–72.)

Among the many actions taken in the 2007 Report and Order, the Commission: Adopted a mix of geographic license area sizes for the commercial services, including Cellular Market Areas (CMAs), Economic Areas (EAs), and Regional Economic Areas (REAGs); eliminated rules that permit comparative hearings for license renewal, and clarified the requirements and procedures of the license renewal process; shifted the license termination date from January 15, 2015 to February 17, 2019, thus granting licensees an initial license term not-to-exceed ten years after the end of the DTV transition; adopted a power spectral density model to provide greater operational flexibility to licensees operating at wider bandwidths; continued to allow a 50 kW effective radiated power level for base station operations for auctioned licenses and unpaired spectrum in the lower 700 MHz band (TV Channels 52–59); modified power limits for upper 700 MHz band (TV Channels 60–69), and; permitted 700 MHz licensees to meet radiated power limits on an average, rather than peak, basis.

Further, in order to promote access to spectrum and the provision of service, the 2007 Report and Order adopted revised performance requirements for certain 700 MHz licensees, including the use of interim and end-of-term benchmarks. The 2007 Report and Order also imposed interim reporting requirements on licensees to provide the Commission with information concerning the status of licensees' efforts to meet performance requirements and the manner in which their spectrum is being utilized.

On February 20, 2009, the Commission adopted a Second Report and Order and Notice of Proposed Rulemaking in MB Docket No. 09–17, MB Docket No. 07–148, MB Docket No. 07–91, MB Docket No. 08–255, WT Docket No. 06–150, WT Docket No. 06–169, PS Docket No. 06–229, WT Docket No. 96–86, FCC 09–11, to implement the DTV Delay Act, Public Law 111–4, 123 Stat. 112 (2009), which extended the DTV transition deadline from February 17, 2009, to June 12, 2009. Steps taken by the Commission to conform with the DTV Delay Act included the extension of applicable 700 MHz construction benchmarks and reporting requirements by a period of 116 days.

On October 29, 2013, the Commission issued a Report and Order and Order of Proposed Modification in WT Docket No. 12–69 and WT Docket No. 12–332, FCC 13–136 (700 MHz Interoperability Order), in which it revised certain technical rules and extended or waived construction deadlines for certain licenses in order to resolve issues resulting from the lack of interoperability in the Lower 700 MHz Band. The Report and Order did not revise any of the information collection requirements that are contained in this collection. It simply waived or revised the dates on which the information collection requirements are required.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12349 Filed 6–14–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10367—Summit Bank Burlington, Washington

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Summit Bank, Burlington, Washington (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Summit Bank on May 20, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight, Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 12, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–12447 Filed 6–14–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:12 a.m. on Tuesday, June 13, 2017, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Richard Cordray (Director, Consumer Financial Protection Bureau), concurred in by Director Keith A. Noreika (Acting Comptroller of the Currency), and Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of

subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10).

Dated: June 13, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–12520 Filed 6–13–17; 4:15 pm]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10394 Patriot Bank of Georgia; Cumming, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10394 Patriot Bank of Georgia, Cumming, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Patriot Bank of Georgia (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective June 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: June 12, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–12403 Filed 6–14–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 30, 2017.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Thomas M. Beck, Eden Prairie, Minnesota, as trustee of the Walter C. Rasmussen Marital Trust Created Under Trust Agreement dated December 26, 1985, Minneapolis, Minnesota, and as trustee of the Walter C. Rasmussen Family Trust Created Under Trust Agreement dated December 26, 1985, Minneapolis, Minnesota;* to acquire voting shares of Northeast Securities Corporation, Minneapolis, Minnesota, and thereby indirectly acquire shares of Northeast Bank, Minneapolis, Minnesota.

Board of Governors of the Federal Reserve System, June 12, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–12405 Filed 6–14–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 10, 2017.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Axiom Bancshares, Inc., Maitland, Florida;* to become a bank holding company upon the conversion of Axiom Bank, FSB, Maitland, Florida, from a federal savings bank to a national bank.

Board of Governors of the Federal Reserve System, June 9, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–12343 Filed 6–14–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of routine use.

SUMMARY: The FTC is adopting in final form a new routine use that permits disclosure of the agency's Freedom of Information Act (''FOIA'') request and appeal records to the Office of Government Information Services (''OGIS''), in order for OGIS to assist FOIA requesters in the processing and resolution of their requests and appeals. In addition to revising the applicable Privacy Act system of records notice to include this new routine use, the FTC is also separately making a technical revision to update the records disposition section of the notice.

DATES: These amendments are effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: G. Richard Gold and Alex Tang, Attorneys, Office of the General Counsel, FTC, 600 Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–2424.

SUPPLEMENTARY INFORMATION: In a document previously published in the **Federal Register**, 82 FR 10012 (Feb. 9, 2017), the Federal Trade Commission, as required by the Privacy Act, sought comments on a proposal to adopt a new routine use. *See* 5 U.S.C. 552a(e)(4) and (11). As the FTC explained, the new routine use, the text of which is set forth

at the end of this document, authorizes the FTC to disclose FOIA request and appeal records covered by FTC–V–1 to the Office of Government Information Services (''OGIS''), in order for OGIS to assist requesters in the processing and resolution of their requests and appeals.

The OPEN Government Act of 2007 amended the Freedom of Information Act and created OGIS within the National Archives and Records Administration (''NARA''). The 2007 FOIA amendments require OGIS to review agency FOIA policies, procedures, and compliance, and to offer mediation services to resolve disputes between FOIA requesters and agencies. *See* 5 U.S.C. 552(h).

In order for OGIS to fulfill its statutory responsibilities, it requires access to FOIA request files originated and maintained by federal agencies including the FTC. However, because the FOIA request and appeal records covered by FTC–V–1 are governed by the Privacy Act of 1974, their disclosure normally requires the prior written consent of the individual to whom the records pertain (including, for example, an individual filing a FOIA request), unless the agency has published a routine use authorizing disclosure.

The Privacy Act authorizes the agency to adopt routine uses that are consistent with the purpose for which information is collected. 5 U.S.C. 552a(b)(3); *see also* 5 U.S.C. 552a(a)(7). The FTC believes that it is consistent with the purposes for which the FOIA request and appeal records covered by FTC–V–1 are collected to disclose such records routinely to OGIS to help OGIS mediate between individual FOIA requesters and agencies and ensure compliance with the FOIA statute. If agencies do not establish a ''routine use'' to provide for this proposed disclosure, OGIS would have to obtain the written consent of the individual FOIA requesters in order to obtain the access it requires to assist that requester. Simplifying the procedure for exchanging information would increase the efficiency of the FOIA administrative process. FTC staff understands that obtaining such consent has proven more complicated in some circumstances, *e.g.,* when an agency, rather than the individual FOIA requester, seeks OGIS's assistance to mediate between the agency and the individual FOIA requester. Accordingly, the Commission concludes that it is authorized under the Privacy Act to adopt a routine use permitting disclosure of Privacy Act records for such purposes.

In seeking public comments on the proposed routine use, the FTC explained that it would take into account any such comments and make appropriate or necessary revisions, if any, before publishing the proposed routine use as final. In response to the one comment received from the Office of Management and Budget (OMB), the FTC is republishing an updated notice to clarify that the text of Appendices I–III, cited in this system of records notice (SORN), is publicly available on the privacy program page of the FTC's Web site and previously published in the **Federal Register**.

The FTC is also separately making a technical revision that updates the records disposition section of FTC–V–1. During January 2017, NARA issued General Records Schedule 4.2, Records of Information Access and Protection, which in part superseded and rescinded General Records Schedule 14, which previously covered FOIA-related records across the federal government. FTC–V–1's records disposition section has been updated accordingly. This change does not require prior public comment or notice to the Office of Management & Budget (OMB) and Congress. *See* U.S.C. 552a(e)(11) and 552a(r); OMB Circular A–108 (2016).

In light of the updated SORN template set forth in the newly revised OMB Circular A–108, the FTC is reprinting the text of the entire SORN, including the new routine use, for the public's benefit, to read as follows:

* * * * *

V. FTC Access Requests

SYSTEM NAME AND NUMBER:

Freedom of Information Act Requests and Appeals–FTC (FTC–V–1).

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's privacy program page at *www.ftc.gov/privacy* and at 80 FR 9460, 9465 (Feb. 23, 2015).

SYSTEM MANAGER(S):

FOIA/PA Supervisor, Office of General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.;* Freedom of Information Act, 5 U.S.C. 552.

PURPOSE(S) OF THE SYSTEM:

To consider requests and appeals for access to records under the Freedom of Information Act; to determine the status of requested records; to respond to the requests and appeals; to make copies of FOIA requests and frequently requested records available publicly, under the FTC's Rules of Practice and FOIA; to maintain records, documenting the consideration and disposition of the requests for reporting, analysis, and recordkeeping purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing requests for access to information under the Freedom of Information Act (FOIA); individuals named in the FOIA request; FTC staff assigned to help process, consider, and respond to such requests, including any appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Communications (*e.g.,* letters, emails) to and from the requesting party; agency documents generated or collected during processing and consideration of the request, including scanned copies of materials responsive to the FOIA request.

RECORD SOURCE CATEGORIES:

Individual about whom the record is maintained and agency staff assigned to help process, review, or respond to the access request, including any appeal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Request and appeal letters, and agency letters responding thereto, are placed on the FTC's public record and available to the public for routine inspection and copying. See FTC–I–6 (Public Records–FTC).

(2) As required by the FOIA, records that have been ''frequently requested'' and disclosed under the FOIA within the meaning of that Act, as determined by the FTC, are made available to the public for routine inspection and copying. See FTC–I–6 (Public Records–FTC).

(3) Disclosure to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

For other ways that the Privacy Act permits the FTC to use or disclose

system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's privacy program page at *www.ftc.gov/privacy* and at 73 FR 33592, 36333–36334 (June 12, 2008).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained electronically using a commercial software application run on the agency's internal servers. Temporary paper files are destroyed once the request is complete.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by name of requesting party and subject matter of request. Records can also be searched by name, address, phone number, fax number, and email of the requesting party, subject matter of the request, requestor organization, FOIA number, and staff member assigned to the request.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with General Records Schedule 4.2, issued by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Requests, appeals, and responses available to the public, as described above. Access to nonpublic system records is restricted to FTC personnel or contractors whose responsibilities require access. Nonpublic paper records are temporary, maintained in lockable file cabinets or offices, and destroyed once the request is complete. Access to electronic records is controlled by ''user ID'' and password combination and other electronic access or network controls (*e.g.,* firewalls). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's privacy program page at *www.ftc.gov/privacy* and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's privacy program page at *www.ftc.gov/privacy* and at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's privacy program page at *www.ftc.gov/privacy* and at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Records contained in this system that have been placed on the FTC public record are available upon request, as discussed above. However, pursuant to 5 U.S.C. 552a(k)(2), records in this system, which reflect records that are contained in other systems of records that are designated as exempt, are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a. See § 4.13(m) of the FTC Rules of Practice, 16 CFR 4.13(m).

HISTORY:

73 FR 33592–33634 (June 12, 2008).

* * * * *

David C. Shonka,

Acting General Counsel.

[FR Doc. 2017–12452 Filed 6–14–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0192]

Agency Information Collection Activities; Proposed Collection; Comment Request; Establishing and Maintaining Lists of U.S. Milk Product Manufacturers/Processors With Interest in Exporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection entitled ''Establishing and Maintaining Lists of U.S. Milk Product Manufacturers/Processors With Interest in Exporting,'' which establishes and maintains lists of U.S. milk product manufacturers and processors with interest in exporting to countries that require such lists to be maintained. The notice also solicits comments on an electronic registry that will allow manufacturers and processors of milk products to electronically request inclusion on the export lists.

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

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

• For written/paper comments submitted to the Division of Dockets Management, 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–2014–N–0192 for ''Establishing and Maintaining Lists of U.S. Milk Product Manufacturers/Processors with Interest in Exporting.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management 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 Division of Dockets Management. 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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Establishing and Maintaining Lists of U.S. Milk Product Manufacturers/Processors With Interest in Exporting—21 U.S.C. 371—OMB Control Number 0910–0509—Extension

The United States exports a large volume and variety of foods in international trade. For certain food products, foreign governments may require assurances from the responsible authority of the country of origin of an imported food that the processor of the food is in compliance with applicable country of origin regulatory requirements. With regard to U.S. milk products, FDA is the competent U.S. food safety authority to provide this information to foreign governments. FDA provides the requested information about processors in the form of lists, which are provided to the foreign governments and posted online at *http://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Exporting/default.htm.*

Currently, FDA provides Chile, China, and the European Union (EU) with a list of U.S. milk product manufacturers/processors that: (1) Have expressed interest in exporting their products to these countries; (2) are subject to FDA's jurisdiction; and (3) are not the subject of a pending enforcement action (*i.e.,* an injunction or seizure or a pending warning letter).

FDA has published guidance documents for these countries under the authority of section 701(h) of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)), which authorizes the Secretary of Health and Human Services (the Secretary) to develop guidance documents with public participation presenting the views of the Secretary on matters under the jurisdiction of FDA.

The guidance documents explain what information manufacturers/processors should submit to FDA to be considered for inclusion on the lists and what criteria FDA intends to use to determine eligibility for placement on the lists. The guidance documents also explain how FDA intends to update the list and communicate any new information to the government that requested the list. Finally, the guidance documents note that the information is provided voluntarily by manufacturers/processors with the understanding that it will be posted on FDA's external Web site and communicated to, and possibly further disseminated by, the government that requested the list; thus, FDA considers the information on the lists to be information that is not protected from disclosure under 5 U.S.C. 552(b)(4).

Application for inclusion on each list is voluntary. However, some foreign governments may require inclusion on the list for acceptance of imported food. FDA recommends that U.S. manufacturers/processors that want to be placed on the export lists send FDA the following information: (1) Country to which the milk manufacturer/processor wants to export product; (2) type of milk product facility; (3) the Food Facility Registration Module number (the information collected by this module is approved under OMB control number 0910–0502); (4) name and address of the firm and the

manufacturing plant; (5) name, telephone number, and email address of the contact person; (6) list of products divided into three categories: Presently shipped, ready to ship, and available for shipment in the next 3 years; (7) identities of agencies that inspected the plant; (8) date of last inspection, plant number, and copy of last inspection notice; and (9) if other than an FDA inspection, copy of last inspection report.

We request that this information be updated every 2 years.

We use the information submitted by firms to determine their eligibility for placement on the export lists, which are published on our Web site. The purpose of the lists is to help foreign governments in their determinations of which U.S. milk product manufacturers and processors are eligible to export to their respective countries.

FDA has recently developed an electronic registry system (Form FDA 3972) that allows milk product manufacturers and processors to electronically send a request to FDA to be included on the export lists. Manufacturers and processors that prefer to submit a paper request in a format of their own choosing will still have the option to do so. Electronic Form FDA 3972 collects the same information as is currently collected via the existing paper-based process. Draft screenshots of Form FDA 3972 and instructions are available at *http://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Exporting/ucm496929.htm* and is entitled ''Dairy Listing Module.''

Description of Respondents: Respondents to this collection of information include U.S. milk product manufacturers/processors subject to FDA jurisdiction that wish to export to certain foreign countries that require inclusion on export lists.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
New requests to be placed on the lists	2,000	1	2,000	1	2,000
Biennial update	2,000	1	2,000	0.5 (30 minutes)	1,000
Occasional updates	200	1	200	0.5 (30 minutes)	100
Total					3,100

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimate on the number of manufacturers/processors that have submitted new written requests, biennial updates, and occasional updates over the past 10 years. The estimate of the number of burden hours it will take a manufacturer/processor to gather the information needed to be placed on the list or update its information is based on FDA's experience with manufacturers/processors submitting similar requests. FDA believes that the information to be submitted will be readily available to manufacturers/processors. This collection is also incorporating information collected to maintain lists of eligible exporters of dairy products who wish to export to the EU from OMB control number 0910–0320, ''Request for Information from U.S. Processors that Export to the European Community.''

FDA estimates that 2,000 firms will average 60 minutes (1 hour) to submit new requests for inclusion on the list, 2,000 firms will average 30 minutes (0.5 hour) to update their information every 2 years, and 200 firms will average 30 minutes (0.5 hour) to occasionally update their information in this system. We also believe that submission via the electronic registry system will not affect the burden estimates. An electronic registry will enhance the ability of firms to more efficiently request inclusion on export lists. FDA calculates, therefore, that the total burden for this collection is 3,100 hours ((2,000 × 1) plus (2,000 × 0.5) plus (200 × 0.5)).

Dated: June 9, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12356 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–3001]

Modified Risk Tobacco Product Applications: Applications for IQOS System With Marlboro Heatsticks, IQOS System With Marlboro Smooth Menthol Heatsticks, and IQOS System With Marlboro Fresh Menthol Heatsticks Submitted by Philip Morris Products S.A.; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability for public comment of modified risk tobacco product applications (MRTPAs) for IQOS system with Marlboro Heatsticks, IQOS system with Marlboro Smooth Menthol Heatsticks, and IQOS system with Marlboro Fresh Menthol Heatsticks submitted by Philip Morris Products S.A.

DATES: Submit either electronic or written comments on the application by December 12, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–3001 for ''Modified Risk Tobacco Product Applications: Applications for IQOS system with Marlboro Heatsticks, IQOS system with Marlboro Smooth Menthol Heatsticks, and IQOS system with Marlboro Fresh Menthol Heatsticks Submitted by Philip Morris Products S.A.'' 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 Division of Dockets Management 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 Division of Dockets Management. 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 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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Paul Hart, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373, email: *AskCTP@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 911 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387k) addresses the marketing and distribution of modified risk tobacco products (MRTPs). MRTPs are tobacco products that are sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. Section 911(a) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any MRTP unless an order issued by FDA under section 911(g) of the FD&C Act is effective with respect to such product.

Section 911(d) of the FD&C Act describes the information that must be included in an MRTPA, which must be filed and evaluated by FDA before an applicant can receive an order from FDA. FDA is required by section 911(e) of the FD&C Act to make an MRTPA available to the public (except for matters in the application that are trade secrets or otherwise confidential commercial information) and to request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying the application. The determination of whether an order is appropriate under section 911(g) of the FD&C Act is based on the scientific information submitted by the applicant as well as the scientific evidence and other information that is made available to the Agency, including through public comments.

Section 911(g) of the FD&C Act describes the demonstrations applicants must make to obtain an order from FDA under either section 911(g)(1) or (g)(2). A person seeking an order under section 911(g)(1) of the FD&C Act must show that the tobacco product, as it is actually used by consumers, will significantly reduce harm and the risk of tobacco-related disease to individual tobacco users and will benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products. Section 911(g)(4) of the FD&C Act describes factors that FDA must take into account in evaluating whether a tobacco product benefits the health of individuals and the population as a whole.

FDA may issue an order under section 911(g)(2) of the FD&C Act with respect to a tobacco product that does not satisfy the section 911(g)(1) standard. A person seeking an order under section 911(g)(2) of the FD&C Act must show that:

- Such an order would be appropriate to promote the public health;
- Any aspect of the label, labeling, and advertising for the product that would cause the product to be an MRTP is limited to an explicit or implicit representation that the tobacco product or its smoke does not contain or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;
- Scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards for obtaining an order under section 911(g)(1);
- The scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies;
- The magnitude of overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;
- The product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the reasonably likely overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

• Testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product is or has been demonstrated to be less harmful or presents or has been demonstrated to present less of a risk of disease than one or more other commercially marketed tobacco products; and

• Issuance of the exposure modification order is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

Section 911(g)(4) of the FD&C Act describes factors that FDA must take into account in evaluating whether a tobacco product satisfies the requirements in section 911(g)(2).

FDA is issuing this notice to inform the public that the following MRTPAs submitted by Philip Morris Products S.A. have been filed and are being made available for public comment:

• MR0000059: IQOS system with Marlboro Heatsticks

• MR0000060: IQOS system with Marlboro Smooth Menthol Heatsticks

• MR0000061: IQOS system with Marlboro Fresh Menthol Heatsticks

Due to the large size of these applications, FDA will post the application documents in batches on a rolling basis as they are redacted in accordance with applicable laws. In this document, FDA is announcing the availability of the first batch of application documents. FDA is making the applications available for public comment for 180 days from the posting of the first batch of application documents. In the event that fewer than 30 days remain in the comment period when the final batch is posted, FDA will issue a notice in the **Federal Register** extending the comment period to allow for at least 30 days of public comment from the day the final batch is posted. FDA believes that this comment period is appropriate given the volume and complexity of the applications being posted. To encourage public participation consistent with section 911(e) of the FD&C Act, FDA is making the redacted MRTPAs that are the subject of this notice available electronically (see section II).

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/TobaccoProducts/Labeling/MarketingandAdvertising/ucm546281.htm.*

Dated: June 9, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12369 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0424]

Agency Information Collection Activities; Proposed Collection; Comment Request; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension/reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing temporary marketing permit applications.

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2011–N–0424 for ''Temporary Marketing Permit Applications.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov/* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the

claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov/.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov/* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i)—OMB Control Number 0910–0133—Extension

Section 401 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 341) directs FDA to issue regulations establishing definitions and standards of identity for food ''whenever . . . such action will promote honesty and fair dealing in the interest of consumers. . . .'' Under section 403(g) of the FD&C Act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) enables the Agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions and standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
130.17(c)—Request for temporary marketing permit	13	2	26	25	650
130.17(i)—Request to extend marketing permit	1	2	2	2	4
Total					654

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of temporary marketing permit applications and hours per response is an average based on our experience with applications received for the past 3 years, and information from firms that have submitted recent requests for temporary marketing permits. Based on this information, we estimate that there will be, on average, approximately 13 firms submitting requests for 2 temporary marketing permits per year over the next 3 years.

Thus, we estimate that 13 respondents will submit 2 requests for temporary marketing permits annually pursuant to § 130.17(c). The estimated number of respondents for § 130.17(i) is minimal because this section is seldom used by the respondents; therefore, the Agency estimates that there will be one or fewer respondents annually with two or fewer requests for extension of the marketing permit under § 130.17(i). The estimated number of hours per response is an average based on the Agency's experience and information from firms that have submitted recent requests for temporary marketing permits. We estimate that 13 respondents each will submit 2 requests for temporary marketing permits under § 130.17(c) and that it will take a respondent 25 hours per request to comply with the requirements of that section, for a total of 650 hours. We estimate that one respondent will submit two requests for extension of its temporary marketing permits under § 130.17(i) and that it will

take a respondent 2 hours per request to comply with the requirements of that section, for a total of 4 hours.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12438 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1064]

Agency Information Collection Activities; Proposed Collection; Comment Request; State Petitions for Exemption From Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of our reporting requirements contained in existing FDA regulations governing State petitions for exemption from preemption.

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov/* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov/.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–1064 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; State Petitions for Exemption From Preemption.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov/* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov/.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov/* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

State Petitions for Exemption From Preemption—21 CFR 100.1(d)

OMB Control Number 0910–0277—Extension

Under section 403A(b) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343–1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard-of-identity requirements. Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under § 100.1(d) enables FDA to determine whether the State food labeling or standard-of-identity requirement satisfies the criteria of section 403A(b) of the FD&C Act for granting exemption from Federal preemption.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR 100.1(d)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Form of petition	1	1	1	40	40

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.1(d) is minimal because petitions for exemption from preemption are seldom submitted by States. In the last 3 years, we have received one new petition for exemption from preemption; therefore, we estimate that one or fewer petitions will be submitted annually.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12445 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2683]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Data To Support Social and Behavioral Research as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 17, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910—NEW and ''Data to Support Social and Behavioral Research as Used by the Food and Drug Administration.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Data To Support Social and Behavioral Research as Used by the Food and Drug Administration—OMB Control Number 0910—NEW

Understanding patients, consumers, and health care professionals' perceptions and behaviors plays an important role in improving FDA's regulatory decisionmaking processes and communications impacting various stakeholders. The methods to be employed to achieve these goals include individual indepth interviews, general public focus group interviews, intercept interviews, self-administered surveys, gatekeeper surveys, and focus group interviews. The methods to be used serve the narrowly defined need for direct and informal opinion on a specific topic and as a qualitative and quantitative research tool, and have two major purposes:

(1) To obtain information that is useful for developing variables and measures for formulating the basic objectives of social and behavioral research; and

(2) To assess the potential effectiveness of FDA communications, behavioral interventions, and other materials in reaching and successfully communicating and addressing behavioral change with their intended audiences.

FDA will use these methods to test and refine its ideas and to help develop communication and behavioral strategies research, but will generally conduct further research before making important decisions such as adopting new policies and allocating or redirecting significant resources to support these policies.

FDA's Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, Office of the Commissioner, and potentially other Agency components will use this mechanism to test communications and social and behavioral methods about regulated drug products on a variety of subjects related to consumer, patient, or health care professional perceptions, beliefs, attitudes, behaviors, and use of

drug and biological products and related materials, including, but not limited to, social and behavioral research, decisionmaking processes, and communication and behavioral change strategies.

Annually, FDA estimates about 45 social and behavioral studies using the variety of test methods listed in this document. FDA is requesting this burden so as not to restrict the Agency's ability to gather information on public sentiment for its proposals in its regulatory and communications programs.

In the **Federal Register** of September 19, 2016 (81 FR 64166), FDA published a 60-day notice requesting public comment on the proposed extension of this collection of information. No comments were received in response to the notice.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Interviews/Surveys	2,520	14.6	36,792	0.25 (15 minutes)	9,198

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12446 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0329]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection in the guidance on Fees for Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug, and Cosmetic Act (FD&C Act).

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, 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–2014–D–0329 for ''Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management 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 Division of Dockets Management. 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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act—OMB Control Number 0910–0776—Extension

On November 27, 2013, the President signed the Drug Quality and Security Act (DQSA) (Pub. L. 113–54) into law. The DQSA added a new section, 503B (21 U.S.C. 353B), to the FD&C Act, creating a category of entities called ''outsourcing facilities.'' Outsourcing facilities, as defined in section 503B(d)(4) of the FD&C Act, are facilities that meet certain requirements described in section 503B, including registering with FDA as an outsourcing facility and paying associated fees. Drug products compounded in an outsourcing facility can qualify for exemptions from the FDA approval requirements in section 505 of the FD&C Act (21 U.S.C. 355) and the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) if the requirements in section 503B of the FD&C Act are met.

The guidance is intended for entities that compound human drugs and elect to register as outsourcing facilities under section 503B of the FD&C Act. Once an entity has elected to register as an outsourcing facility, it must pay certain fees to be registered as an outsourcing facility. The guidance describes the types and amounts of fees that outsourcing facilities must pay, the adjustments to fees required by law, the way in which outsourcing facilities may submit payment to FDA, the consequences of outsourcing facilities' failure to pay fees, and the way an outsourcing facility may qualify as a small business to obtain a reduction in fees.

The guidance contains the following collections of information.

As described in section III.A of the guidance, upon receiving registration information from a facility seeking to register as an outsourcing facility, FDA will send an invoice for an establishment fee to the outsourcing facility. The invoice contains instructions for paying the establishment fee, as discussed in section III.E of the guidance. This process would be repeated annually under the timeframes described in the guidance. An outsourcing facility is not considered registered until the required establishment fee is paid for that fiscal year.

We estimate that annually a total of 60 outsourcing facilities (''number of respondents'' in table 1, row 1) will pay to FDA 60 establishment fees (''total annual responses'' in table 1, row 1) as described in the guidance. We also estimate that it will take an outsourcing facility 0.5 hour to prepare and submit to FDA each establishment fee (''average burden per response'' in table 1, row 1).

As described in section III.C of the guidance, outsourcing facilities that are re-inspected will be assessed a re-inspection fee for each re-inspection. The re-inspection fee is designed to reimburse FDA when it must visit a particular outsourcing facility more than once because of noncompliance identified during a previous inspection. A re-inspection fee will be incurred for each re-inspection that occurs. After FDA conducts a re-inspection, we will send an invoice to the email address indicated in the facility's registration file. The invoice contains instructions for paying the re-inspection fee, as discussed in section III.E of the guidance.

We estimate that annually a total of 15 outsourcing facilities (''number of respondents'' in table 2, row 1) will pay to FDA 15 re-inspection fees (''total annual responses'' in table 2, row 1) as described in the guidance. We also estimate that it will take an outsourcing facility 0.5 hour to prepare and submit to FDA each re-inspection fee (''average burden per response'' in table 2, row 1).

As described in section III.D of the guidance, certain outsourcing facilities may qualify for a small business reduction in the amount of the annual establishment fee. To qualify for this reduction, an outsourcing facility must submit to FDA a written request certifying that the entity meets the requirements for the reduction. For every fiscal year that the firm seeks to qualify as a small business and receive the fee reduction, the written request must be submitted to FDA by April 30 of the preceding fiscal year. For example, an outsourcing facility must submit a written request for the small business reduction by April 30, 2015, to qualify for a reduction in the fiscal year 2016 annual establishment fee. As described in the guidance, section 744K of the FD&C Act (21 U.S.C. 379j–62) also

requires an outsourcing facility to submit its written request for a small business reduction in a format specified by FDA in the guidance. The guidance specifies that Form FDA 3908 is the format for submitting requests for a small business fee reduction.

We estimate that annually a total of 15 outsourcing facilities (''number of respondents'' in table 1, row 2) will submit to FDA a request for a small business reduction in the amount of the annual establishment fee. We estimate that 15 outsourcing facilities will submit Form FDA 3908 (''total annual responses'' in table 1, row 2) to FDA annually, as described in the guidance, and that it will take an outsourcing facility 25 hours to prepare and submit to FDA each Form FDA 3908 (''average burden per response'' in table 1, row 2).

As described in section III.D of the guidance, those outsourcing facilities that request a small business reduction in the amount of the annual establishment fee will receive a small business designation letter notifying the facility of FDA's decision. Outsourcing facilities eligible to pay a reduced fee should maintain a copy of the small business designation letter applicable to that fiscal year for their records.

We estimate that annually a total of 15 outsourcing facilities (''number of recordkeepers'' in table 3) will keep a copy of their small business designation letter (''total annual records'' in table 3), and that maintaining each record will take 0.5 hour (''average burden per recordkeeping'' in table 3).

As described in section V.B of the guidance, an outsourcing facility may request reconsideration under 21 CFR 10.75 of an FDA decision related to the fee provisions of section 744K of the FD&C Act. As explained in the guidance, the request should state the facility's rationale for its position that the decision was in error and include any additional information that is relevant to the outsourcing facility's argument.

We estimate that a total of three outsourcing facilities (''number of respondents'' in table 2, row 2) annually will submit to FDA a request for reconsideration as described in the guidance. We estimate that it will take an outsourcing facility approximately 1 hour to prepare and submit to FDA each request for reconsideration (''average burden per response'' in table 2, row 2).

As described in section V.B of the guidance, an outsourcing facility may appeal, as set forth in § 10.75, an FDA denial of a request for reconsideration of an FDA decision related to the fee provisions of section 744K of the FD&C Act.

We estimate that a total of one outsourcing facility (''number of respondents'' in table 2, row 3) annually will submit an appeal of an FDA denial of a request for reconsideration. We estimate that it will take an outsourcing facility 1 hour to prepare and submit each appeal under § 10.75 (''average burden per response'' in table 2, row 3).

The estimated reporting and recordkeeping burdens for this collection of information are as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN—ESTABLISHMENT FEE [1]

Type of reporting	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Payment of annual establishment fee	60	1	60	.5 (30 minutes)	30
Request for Small Business Establishment Fee Reduction (FDA Form 3908).	15	1	15	25	375
Total					405

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN—RE-INSPECTION FEE AND DISPUTE RESOLUTION REQUESTS [1]

Type of reporting	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Payment of re-inspection fee	15	1	15	.5 (30 minutes)	7.50
Reconsideration request	3	1	3	1	3
Appeal request	1	1	1	1	1
Total					11.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Type of recordkeeping	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per record	Total hours
Copy of small business designation letter	15	1	15	.5 (30 minutes)	7.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 9, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12353 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–E–0118]

Determination of Regulatory Review Period for Purposes of Patent Extension; NATPARA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for NATPARA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by August 14, 2017. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 12, 2017. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, 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–E–0118 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; NATPARA.'' 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 Division of Dockets Management 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 Division of Dockets Management. 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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, (301) 796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase

begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product NATPARA (parathyroid hormone (recombinant human)). NATPARA is indicated as an adjunct to calcium and vitamin D to control hypocalcemia in patients with hypoparathyroidism. Subsequent to this approval, the USPTO received a patent term restoration application for NATPARA (U.S. Patent No. 5,496,801) from NPS Pharmaceuticals Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 10, 2016, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of NATPARA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for NATPARA is 7,268 days. Of this time, 6,811 days occurred during the testing phase of the regulatory review period, while 457 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* March 3, 1995. The applicant claims January 31, 1995, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was March 3, 1995, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* October 24, 2013. FDA has verified the applicant's claim that the biologics license application (BLA) for NATPARA (BLA 125511) was initially submitted on October 24, 2013.

3. *The date the application was approved:* January 23, 2015. FDA has verified the applicant's claim that BLA 125511 was approved on January 23, 2015.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **ADDRESSES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 9, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12359 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Request for Nominations for Individuals and Consumer Organizations for Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees recommended to serve as a voting or nonvoting consumer representative may be self-nominated or may be nominated by a consumer organization.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or email stating that interest to FDA (see **ADDRESSES**) by July 17, 2017, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by July 17, 2017. Nominations will be accepted for current vacancies and for those that will or may occur through November 30, 2017.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should be submitted electronically to *ACOMSSubmissions@fda.hhs.gov,* by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, or by FAX: 301–847–8640.

Consumer representative nominations should be submitted electronically by logging into the FDA Advisory Committee Membership Nomination Portal at: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm,* by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, or by FAX: 301–847–8640. Additional information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: *For questions relating to participation in the*

selection process: Kimberly Hamilton, Advisory Committee Oversight and Management Staff (ACOMS), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, 301–796–8220, email: *kimberly.hamilton@fda.hhs.gov.*

For questions relating to specific advisory committees or panels, contact the appropriate Contact Person listed in table 1.

TABLE 1—ADVISORY COMMITTEE CONTACTS

Contact person	Committee/panel
Lauren Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2426, Silver Spring, MD 20993–0002, phone: 301–796–2721, email: *Lauren.Tesh@fda.hhs.gov.*.	Antimicrobial Advisory Committee.
Patricio Garcia, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G610, Silver Spring, MD 20993–0002, phone: 301–796–6875, email: *Patricio.Garcio@fda.hhs.gov.*.	Clinical Chemistry and Clinical Toxicology Devices Panel.
Evella Washington, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1535, Silver Spring, MD 20993–0002, phone: 301–796–6683, email: *Evella.Washington@fda.hhs.gov.*.	Ear, Nose and Throat Devices Panel, Immunology Devices Panel.
Pamela Scott, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5572, Silver Spring, MD 20993–0002, phone: 301–796–5433, email: *Pamela.Scott@fda.hhs.gov.*.	Medical Devices Dispute Resolution.
Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2648, Silver Spring, MD 20993–0002, phone: 301–796–0400, email: *Aden.Asefa@fda.hhs.gov.*.	Neurological Devices Panel.
LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2428, Silver Spring, MD 20993–0002, phone: 301–796–2855, email: *LaToya.Bonner@fda.hhs.gov.*.	Endocrinologic and Metabolic Drugs Advisory Committee.
Karen Strambler, Center for Food Safety and Nutrition, Food and Drug Administration, FDA College Park, CPK1, Rm. 1C008, College Park, MD 20740, phone: 240–402–2589, email: *Karen.Strambler@fda.hhs.gov.*.	Foods Advisory Committee.
Cindy Hong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2430, Silver Spring, MD 20993–0002, phone: 301–796–0889, email: *Cindy.Hong@fda.hhs.gov.*.	Gastrointestinal Drugs Advisory Committee, Pulmonary-Allergy Drugs Advisory Committee.
Jennifer Shepherd, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2434, Silver Spring, MD 20993–0002, phone: 301–796–4043, email: *Jennifer.Shepherd@fda.hhs.gov.*.	Medical Imaging Advisory Committee, Pharmaceutical Science and Clinical Pharmacology.
Sara Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1643, Silver Spring, MD 20993–0002, phone: 301–796–0889, email: *Sara.Anderson@fda.hhs.gov.*.	National Mammography Quality Assurance Advisory Committee.
Moon Hee Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2434, Silver Spring, MD 20993–0002, phone: 301–796–2894, email: *MoonHee.Choi@fda.hhs.gov.*.	Non-Prescription Drugs Advisory Committee, Peripheral & Central Nervous Systems Advisory Committee.
Marie ann Brill, Office of the Commissioner, Office of Medical Products and Tobacco, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993–0002, phone: 240–402–3838, email: *Mariann.Brill@fda.hhs.gov.*.	Pediatrics Advisory Committee.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting and/or nonvoting consumer representatives for the vacancies listed in table 2.

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE DATE NEEDED

Committee/panel/areas of expertise needed	Type of vacancy	Approximate date needed
Antimicrobial Advisory Committee—Knowledgeable in the fields of infectious disease, internal medicine, microbiology, pediatrics, epidemiology or statistics, and related specialties.	1—Voting	November 30, 2017.
Clinical Chemistry and Clinical Toxicology Devices Panel—Doctors of medicine or philosophy with experience in clinical chemistry (e.g., cardiac markers), clinical toxicology, clinical pathology, clinical laboratory medicine, and endocrinology.	1—Non-Voting	February 28, 2017.
Ear, Nose and Throat Devices Panel—Otologists, neurologists, audiologists	1—Non-Voting	Immediately.
Immunology Devices—Persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine.	1—Non-Voting	Immediately.
Medical Devices Dispute Resolution—Experts with broad, cross-cutting scientific, clinical, analytical, or mediation skills	1—Non-Voting	Immediately.
Neurological Devices Panel—Neurosurgeons (cerebrovascular and pediatric), neurologists (stroke, pediatric, pain management, and movement disorders), interventional neuroradiologists, psychiatrists, and biostatisticians.	1—Non-Voting	Immediately.
Endocrinologic and Metabolic Drugs Advisory Committee—Knowledgeable in the fields of endocrinology, metabolism, epidemiology or statistics, and related specialties.	1—Voting	June 30, 2017.
Foods Advisory Committee—Knowledgeable in the fields of physical sciences, biological and life sciences, food science, risk assessment, nutrition, food technology, molecular biology, and other relevant scientific and technical disciplines.	1—Voting	June 30, 2017.
Gastrointestinal Drugs Advisory Committee—Knowledgeable in the fields of gastroenterology, endocrinology, surgery, clinical pharmacology, physiology, pathology, liver function, motility, esophagitis, and statistics.	1—Voting	Immediately.
Pulmonary-Allergy Drugs Advisory Committee—Knowledgeable in the fields of pulmonary medicine, allergy, clinical immunology, and epidemiology or statistics.	1—Voting	May 31, 2017.

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE DATE NEEDED—Continued

Committee/panel/areas of expertise needed	Type of vacancy	Approximate date needed
Medical Imaging Advisory Committee—Knowledgeable in the fields of nuclear medicine, radiology, epidemiology, statistics, and related specialties.	1—Voting	Immediately.
Pharmaceutical Science and Clinical Pharmacology—Knowledgeable in the fields of pharmaceutical manufacturing, clinical pharmacology, pharmacokinetics, bioavailability and bioequivalence research, the design and evaluation of clinical trials, laboratory analytical techniques, pharmaceutical chemistry, physiochemistry, biochemistry, biostatistics, and related biomedical and pharmacological specialties.	1—Voting	Immediately.
National Mammography Quality Assurance Advisory Committee—Physician, practitioner, or other health professional whose clinical practice, research specialization, or professional expertise includes a significant focus on mammography.	1—Non-Voting	Immediately.
Non-Prescription Drugs Advisory Committee—Knowledgeable in the fields of internal medicine, family practice, clinical toxicology, clinical pharmacology, pharmacy, dentistry, and related specialties.	1—Voting	May 31, 2017.
Peripheral and Central Nervous System Drugs Advisory Committee—Knowledgeable in the fields of neurology, neuropharmacology, neuropathology, otolaryngology, epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Pediatrics Advisory Committee—Knowledgeable in pediatric research, pediatric subspecialties, statistics, and/or biomedical ethics. The core of voting members shall also include one representative from a pediatric health organization and one representative from a relevant patient or patient-family organization and may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.	1—Voting	Immediately.

I. Functions and General Description of the Committee Duties

A. Antimicrobial Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders.

B. Certain Panels of the Medical Devices Advisory Committee

Reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area: (1) Advises on the classification or reclassification of devices into one of three regulatory categories; (2) advises on any possible risks to health associated with the use of devices; (3) advises on formulation of product development protocols; (4) reviews premarket approval applications for medical devices; (5) reviews guidelines and guidance documents; (6) recommends exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (7) advises on the necessity to ban a device; and (8) responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner of Food and Drugs on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the dental drug panel are to evaluate and recommend whether various prescription drug products should be changed to over-the-counter status and to evaluate data and make recommendations concerning the approval of new dental drug products for human use.

The Medical Devices Dispute Resolution Panel provides advice to the Commissioner on complex or contested scientific issues between FDA and medical device sponsors, applicants, or manufacturers relating to specific products, marketing applications, regulatory decisions and actions by FDA, and Agency guidance and policies. The Panel makes recommendations on issues that are lacking resolution, are highly complex in nature, or result from challenges to regular advisory panel proceedings or Agency decisions or actions.

C. Endocrinologic and Metabolic Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders.

D. Food Advisory Committee

Make recommendations on emerging food safety, food science, nutrition, and other food-related health issues that FDA considers of primary importance for its food and cosmetics programs. Reviewing and evaluating available data and making recommendations on matters such as those relating to: (1) Broad scientific and technical food or cosmetic related issues; (2) the safety of new foods and food ingredients; (3) labeling of foods and cosmetics; (4) nutrient needs and nutritional adequacy; and (5) safe exposure limits for food contaminants. The Committee may also be asked to provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues and on approaches that might be considered for addressing the issues.

E. Gastrointestinal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal diseases.

F. Pulmonary-Allergy Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

G. Medical Imaging Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

H. Pharmaceutical Science and Clinical Pharmacology Advisory Committee

Provide advice on scientific and technical issues concerning the safety,

and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases, and as required, any other product for which FDA has regulatory responsibility. The committee may also review Agency sponsored intramural and extramural biomedical research programs in support of FDA's generic drug regulatory responsibilities.

I. National Mammography Quality Assurance Advisory Committee

Advise the Agency on the following development of appropriate quality standards and regulations for mammography facilities; standards and regulations for bodies accrediting mammography facilities under this program; regulations with respect to sanctions; procedures for monitoring compliance with standards; establishing a mechanism to investigate consumer complaints; reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities. As well as determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas; determining whether there will exist a sufficient number of medical physicists after October 1, 1999; and determining the costs and benefits of compliance with these requirements.

J. Non-Prescription Drugs Advisory Committee

Review and evaluate available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products, or any other FDA-regulated product, for use in the treatment of a broad spectrum of human symptoms and diseases and advise the Commissioner either on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded or on the approval of new drug applications for such drugs. The Committee will serve as a forum for the exchange of views regarding the prescription and nonprescription status, including switches from one status to another, of these various drug products and combinations thereof. The Committee may also conduct peer review of Agency sponsored intramural and extramural scientific biomedical programs in support of FDA's mission and regulatory responsibilities.

K. Peripheral and Central Nervous System Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases.

L. Pediatrics Advisory Committee

The Committee advises and makes recommendations to the Commissioner of Food and Drugs regarding: (1) Pediatric research; (2) identification of research priorities related to pediatric therapeutics and the need for additional treatments of specific pediatric diseases or conditions, (3) the ethics, design, and analysis of clinical trials related to pediatric therapeutics, (4) pediatric labeling disputes, (5) pediatric labeling changes, (6) adverse event reports for drugs granted pediatric exclusivity and any safety issues that may occur, (7) any other pediatric issue or pediatric labeling dispute involving FDA regulated products, (8) research involving children as subjects, and (9) any other matter involving pediatrics for which FDA has regulatory responsibility. The Committee also advises and makes recommendations to the Secretary directly or to the Secretary through the Commissioner on research involving children as subjects that is conducted or supported by the Department of Health and Human Services.

II. Criteria for Members

Persons nominated for membership as consumer representatives on committees or panels should meet the following criteria: (1) Demonstrate an affiliation with and/or active participation in consumer or community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

III. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or résumé. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

IV. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Nominations should include a cover letter and current curriculum vitae or résumé for each nominee, including a current business and/or home address, telephone number, and email address if available, and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations should also specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations should include confirmation that the nominee is aware of the nomination, unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest. Members will be invited to serve for terms up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process

with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 9, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation and Analysis.

[FR Doc. 2017–12352 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0505]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping and Reporting Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing Material From Cattle

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of existing FDA regulations concerning FDA-regulated human food, including dietary supplements, and cosmetics manufactured from, processed with, or otherwise containing material derived from cattle.

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2009–N–0505 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping and Reporting Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing Material From Cattle.'' 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 Division of Dockets Management 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 Division of Dockets Management. 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: *http://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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB

for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Recordkeeping and Reporting Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing Material From Cattle—21 CFR 189.5 and 700.27

OMB Control Number 0910–0623—Extension

FDA's regulations in §§ 189.5 and 700.27 (21 CFR 189.5 and 700.27) set forth bovine spongiform encephalopathy (BSE)-related restrictions applicable to FDA-regulated human food and cosmetics. The regulations designate certain materials from cattle as ''prohibited cattle materials,'' including specified risk materials (SRMs), the small intestine of cattle not otherwise excluded from being a prohibited cattle material, material from nonambulatory disabled cattle, and mechanically separated (MS) beef. Sections 189.5(c) and 700.27(c) set forth the requirements for recordkeeping and records access for FDA-regulated human food, including dietary supplements, and cosmetics manufactured from, processed with, or otherwise containing material derived from cattle. The FDA issued these recordkeeping regulations under the adulteration provisions in sections 402(a)(2)(C), (a)(3), (a)(4), (a)(5), 601(c), and 701(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(2)(C), (a)(3), (a)(4), (a)(5), 361(c), and 371(a)). Under section 701(a) of the FD&C Act, the FDA is authorized to issue regulations for the FD&C Act's efficient enforcement. With regard to records concerning imported human food and cosmetics, the FDA relied on its authority under sections 701(b) and 801(a) of the FD&C Act (21 U.S.C. 371(b) and 381(a)). Section 801(a) of the FD&C Act provides requirements with regard to imported human food and cosmetics and provides for refusal of admission of human food and cosmetics that appear to be adulterated into the United States. Section 701(b) of the FD&C Act authorizes the Secretaries of Treasury and Health and Human Services to jointly prescribe regulations for the efficient enforcement of section 801 of the FD&C Act.

These requirements are necessary because once materials are separated from an animal it may not be possible, without records, to know the following: (1) Whether cattle material may contain SRMs (brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae and the wings of the sacrum), and dorsal root ganglia from animals 30 months and older and tonsils and distal ileum of the small intestine from all animals of all ages); (2) whether the source animal for cattle material was inspected and passed; (3) whether the source animal for cattle material was nonambulatory disabled or MS beef; and (4) whether tallow in human food or cosmetics contain less than 0.15 percent insoluble impurities.

FDA's regulations in §§ 189.5(c) and 700.27(c) require manufacturers and processors of human food and cosmetics manufactured from, processed with, or otherwise containing material from cattle establish and maintain records sufficient to demonstrate that the human food or cosmetics are not manufactured from, processed with, or otherwise contains prohibited cattle materials. These records must be retained for 2 years at the manufacturing or processing establishment or at a reasonably accessible location. Maintenance of electronic records is acceptable, and electronic records are considered to be reasonably accessible if they are accessible from an onsite location. Records required by these sections and existing records relevant to compliance with these sections must be available to FDA for inspection and copying. Existing records may be used if they contain all of the required information and are retained for the required time period.

Because FDA does not easily have access to records maintained at foreign establishments, FDA regulations in §§ 189.5(c)(6) and 700.27(c)(6), respectively, require that when filing for entry with U.S. Customs and Border Protection, the importer of record of human food or cosmetics manufactured from, processed with, or otherwise containing cattle material must affirm that the human food or cosmetics were manufactured from, processed with, or otherwise containing-cattle material and must affirm that the human food or cosmetics were manufactured in accordance with the applicable requirements of §§ 189.5 or 700.27. In addition, if human food or cosmetics were manufactured from, processed with, or otherwise containing-cattle material, the importer of record must provide within 5 business days records sufficient to demonstrate that the human food or cosmetics were not manufactured from, processed with, or otherwise contains prohibited cattle material, if requested.

Under FDA's regulations, FDA may designate a country from which cattle materials inspected and passed for human consumption are not considered prohibited cattle materials, and their use does not render human food or cosmetics adulterated. Sections 189.5(e) and 700.27(e) provide that a country seeking to be designated must send a written request to the Director of the Center for Food Safety and Applied Nutrition (CFSAN Director). The information the country is required to submit includes information about a country's BSE case history, risk factors, measures to prevent the introduction and transmission of BSE, and any other information relevant to determining whether SRMs, the small intestine of cattle not otherwise excluded from being a prohibited cattle material, material from nonambulatory disabled cattle, or MS beef from the country seeking designation should be considered prohibited cattle materials. FDA uses the information to determine whether to grant a request for designation and to impose conditions if a request is granted.

Sections 189.5 and 700.27 further state that countries designated under §§ 189.5(e) and 700.27(e) will be subject to future review by FDA to determine whether their designations remain appropriate. As part of this process, FDA may ask designated countries to confirm their BSE situation and the information submitted by them, in support of their original application, has remained unchanged. FDA may revoke a country's designation if FDA determines that it is no longer appropriate. Therefore, designated countries may respond to periodic FDA requests by submitting information to confirm their designations remain appropriate. FDA uses the information to ensure their designations remain appropriate.

Description of Respondents: Respondents to this information

collection include manufacturers, processors, and importers of FDA regulated human food, including dietary supplements, and cosmetics manufactured from, processed with, or otherwise containing material derived from cattle, as well as, with regard to §§ 189.5(e) and 700.27(e), foreign governments seeking designation under those regulations.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
189.5(c)(6) and 700.27(c)(6)	54,825	1	54,825	.033 (2 minutes)	1,809
189.5(e) and 700.27(e); request for designation	1	1	1	80	80
189.5(e) and 700.27(e); response to request for review by FDA.	1	1	1	26	26
Total					1,915

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours
Domestic facilities	697	52	36,244	.25 (15 minutes)	9,061
Foreign facilities	916	52	47,632	.25 (15 minutes)	11,908
Total					20,969

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Except where otherwise noted, this estimate is based on FDA's estimate of the number of facilities affected by the final rule entitled, ''Recordkeeping Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing Material From Cattle'' published in the **Federal Register** of October 11, 2006 (71 FR 59653).

Reporting: FDA's regulations in §§ 189.5(c)(6) and 700.27(c)(6) impose a reporting burden on importers of human food and cosmetics manufactured from, processed with, or otherwise containing cattle material. Importers of these products must affirm that the human food or cosmetics are not manufactured from, processed with, or otherwise contain prohibited cattle materials and must affirm that the human food or cosmetics were manufactured in accordance with the applicable requirements of §§ 189.5 or 700.27. The affirmation is made by the importer of record to the FDA through FDA's Operational and Administrative System for Import Support. Affirmation by importers is expected to take approximately 2 minutes per entry line. Table 2 shows 54,825 lines of human food and cosmetics likely to contain cattle materials are imported annually. The reporting burden of affirming whether import entry lines contain cattle-derived materials is estimated to take 1,809 hours annually (54,825 lines × 2 minutes per line).

FDA's estimate of the reporting burden for designation under §§ 189.5 and 700.27 is based on its experience and the average number of requests for designation received in the past 3 years. In the last 3 years, FDA has not received any requests for designation. Thus, FDA estimates that one or fewer will be received annually in the future. Based on this experience, FDA estimates the annual number of new requests for designation will be one. FDA estimates that preparing the information required by §§ 189.5 and 700.27 and submitting it to FDA in the form of a written request to the CFSAN Director will require a burden of approximately 80 hours per request. Thus, the burden for new requests for designation is estimated to be 80 hours annually, as shown in table 1, row 2.

Under §§ 189.5(e) and 700.27(e), designated countries are subject to future review by FDA and may respond to periodic FDA requests by submitting information to confirm their designations remain appropriate. In the last 3 years, FDA has not requested any reviews. Thus, FDA estimates that one or fewer will occur annually in the future. FDA estimates that the designated country undergoing a review in the future will need one-third of the time it took preparing its request for designation to respond to FDA's request for review, or 26 hours (80 hours × 0.33 = 26.4 hours, rounded to 26). The annual burden for reviews is estimated to be 26 hours, as shown in table 1, row 3. The total reporting burden for this information collection is estimated to be 1,915 hours annually.

Recordkeeping: FDA estimates that there are 697 domestic facility relationships and 916 foreign facility relationships consisting of the following facilities: An input supplier of cattle-derived materials that requires records (the upstream facility) and a purchaser of cattle-derived materials requiring documentation (this may be a human food or cosmetics manufacturer or processor). The recordkeeping burden of FDA's regulations in §§ 189.5(c) and 700.27(c) is the burden of sending, verifying, and storing documents regarding shipments of cattle material that is to be used in human food and cosmetics.

In this estimate of the recordkeeping burden, FDA treats these recordkeeping activities as shared activities between the upstream and downstream facilities. It is in the best interests of both facilities in the relationship to share the burden necessary to comply with the regulations; therefore, FDA estimates the time burden of developing these records as a joint task between the two facilities. Thus, FDA estimates that this recordkeeping burden will be about 15 minutes per week, or 13 hours per year, and FDA assumes that the recordkeeping burden will be shared between 2 entities (*i.e.,* the ingredient supplier and the manufacturer of

finished products). Therefore, the total recordkeeping burden for domestic facilities is estimated to be 9,061 hours (13 hours × 697), and the total recordkeeping burden for foreign facilities is estimated to be 11,908 hours (13 hours × 916), as shown in table 2.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12448 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2495]

Request for Nominations for Voting Members on a Public Advisory Committee; Technical Electronic Product Radiation Safety Standards Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC) in the Center for Devices and Radiological Health.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before August 14, 2017 will be given first consideration for membership on TEPRSSC. Nominations received after August 14, 2017 will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be sent electronically by accessing FDA's Advisory Committee Membership Nomination Portal at *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Shanika Craig, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G644, Silver Spring, MD 20993–0002, 301–796–6639, email: *Shanika.Craig@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on TEPRSSC that include two general public representatives and a government representative.

I. General Description of the Committee's Duties

The committee provides advice and consultation to the Commissioner of Food and Drugs (Commissioner) on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products, and may recommend electronic product radiation safety standards to the Commissioner for consideration.

II. Criteria for Voting Members

The committee consists of a core of 15 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of science or engineering, applicable to electronic product radiation safety. Members will be invited to serve for overlapping terms of up to 4 years. Terms of more than 2 years are contingent upon the renewal of the committee by appropriate action prior to its expiration.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the committee. Self-nominations are also accepted. Nominations must include a current and complete résumé or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and email address if available. Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 9, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12354 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1155]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by July 17, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0381. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Labeling Regulations—21 CFR Parts 101, 102, 104, and 105

OMB Control Number 0910–0381—Extension

Our food labeling regulations require food producers to disclose to consumers and others specific information about themselves or their products on the label or labeling of their products. Related regulations require that food producers retain records establishing the basis for the information contained in the label or labeling of their products and provide those records to regulatory officials. Finally, certain regulations provide for the submission of food labeling petitions to us. We issued our food labeling regulations under parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (the FPLA) (15 U.S.C. 1453, 1454, and 1455) and sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the FD&C Act, which provides that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products produced or sold in the United States are in compliance with the labeling provisions of the FD&C Act and the FPLA.

Section 101.3 of our food labeling regulations requires that the label of a food product in packaged form bear a statement of identity (*i.e.,* the name of the product), including, as appropriate, the form of the food or the name of the food imitated. Section 101.4 prescribes requirements for the declaration of ingredients on the label or labeling of food products in packaged form. Section 101.5 requires that the label of a food product in packaged form specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product. Section 101.7 specifies requirements for the declaration of the net quantity of contents on the label of a food in packaged form and prescribes conditions under which a food whose label does not accurately reflect the actual quantity of contents may be sold, with appropriate disclosures, to an institution operated by a Federal, State, or local government. Section 101.108 provides for the submission to us of a written proposal requesting a temporary exemption from certain requirements of §§ 101.9 and 105.66 for the purpose of conducting food labeling experiments with our authorization. Section 101.9 requires that nutrition information be provided for all food products intended for human consumption and offered for sale, unless an exemption in § 101.9(j) applies to the product. In particular, § 101.9(c)(2)(ii) requires that the amount of *trans* fatty acids present in a food must be declared on the nutrition label on a separate line immediately under the line for the declaration of saturated fat. Section 101.9(g)(9) provides that interested parties may submit to us requests for alternative approaches to nutrition labeling requirements. Finally, § 101.9(j)(18) provides that firms claiming the small business exemption from nutrition labeling must submit notice to us supporting their claim exemption. We developed Form FDA 3570 to assist small businesses in claiming the small business exemption from nutrition labeling. The form contains all the elements required by § 101.9(j)(18).

Section 101.10 requires that restaurants provide nutrition information, upon request, for any food or meal for which a nutrient content claim or health claim is made. Section 101.12(b) provides the reference amount that is used for determining the serving sizes for specific products, including baking powder, baking soda, and pectin. Section 101.12(e) provides that a manufacturer that adjusts the reference amount customarily consumed (RACC) of an aerated food for the difference in density of the aerated food relative to the density of the appropriate nonaerated reference food must be prepared to show us detailed protocols and records of all data that were used to determine the density-adjusted RACC. Section 101.12(g) requires that the label or labeling of a food product disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC. Section 101.12(h) provides for the submission of petitions requesting that we change the reference amounts defined by regulation.

Section 101.13 requires that nutrition information be provided in accordance with § 101.9 for any food product for which a nutrient content claim is made. Under some circumstances, § 101.13 also requires the disclosure of other types of information as a condition for the use of a nutrient content claim. For example, under § 101.13(j), if the claim compares the level of a nutrient in the food with the level of the same nutrient in another ''reference'' food, the claim must also disclose the identity of the reference food, the amount of the nutrient in each food, and the percentage or fractional amount by which the amount of the nutrient in the labeled food differs from the amount of the nutrient in the reference food. It also requires that when this comparison is based on an average of food products, this information must be provided to consumers or regulatory officials upon request. Section 101.13(q)(5) requires that restaurants document and provide to appropriate regulatory officials, upon request, the basis for any nutrient content claims they have made for the foods they sell.

Section 101.14(d)(2) and (3) provides for the disclosure of nutrition information in accordance with § 101.9 and, under some circumstances, certain other information as a condition for making a health claim for a food product. Section 101.15 provides that, if the label of a food product contains any representation in a foreign language, all words, statements, and other information required by or under authority of the FD&C Act to appear on the label must appear in both the foreign language and in English. Section 101.22 contains labeling requirements for the disclosure of spices, flavorings, colorings, and chemical preservatives in food products. Section 101.22(i)(4) sets forth disclosure and recordkeeping requirements pertaining to certifications for flavors designated as containing no artificial flavors. Section 101.30 specifies the conditions under which a beverage that purports to contain any fruit or vegetable juice must declare the percentage of juice present in the beverage and the manner in which the declaration is to be made.

Section 101.36 requires that nutrition information be provided for dietary supplements offered for sale, unless an exemption in § 101.36(h) applies. In particular, § 101.36(b)(2) requires that the amount of *trans* fatty acids present in dietary supplements must be declared on the nutrition label on a separate line immediately under the line for the declaration of saturated fat. Section 101.36(e) permits the voluntary declaration of the quantitative amount and the percent of Daily Value of a dietary ingredient on a ''per day'' basis in addition to the required ''per serving'' basis, if a dietary supplement label recommends that the dietary supplement be consumed more than once per day. Section 101.36(f)(2) cross-

references the provisions in § 101.9(g)(9) for the submission to us of requests for alternative approaches to nutrition labeling requirements. Also, § 101.36(h)(2) cross-references the provisions in § 101.9(j)(18) for the submission of small business exemption notices. As noted previously, we developed Form FDA 3570 to assist small businesses in claiming the small business exemption from nutrition labeling. The form contains all the elements required by § 101.36(h)(2).

Section 101.42 requests that food retailers voluntarily provide nutrition information for raw fruits, vegetables, and fish at the point of purchase, and § 101.45 contains guidelines for providing such information. Also, § 101.45(c) provides for the submission to us of nutrient databases and proposed nutrition labeling values for raw fruit, vegetables, and fish for review and approval.

Sections 101.54, 101.56, 101.60, 101.61, and 101.62 specify information that must be disclosed as a condition for making particular nutrient content claims. Section 101.67 provides for the use of nutrient content claims for butter, and cross-references requirements in other regulations for information declaration (§ 101.4) and disclosure of information concerning performance characteristics (§ 101.13(d)). Section 101.69 provides for the submission of a petition requesting that we authorize a particular nutrient content claim by regulation. Section 101.70 provides for the submission of a petition requesting that we authorize a particular health claim by regulation. Section 101.77(c)(2)(ii)(D) requires the disclosure of soluble fiber per serving in the nutrition labeling of a food bearing a health claim about the relationship between soluble fiber and a reduced risk of coronary heart disease. Section 101.79(c)(2)(iv) requires the disclosure of the amount of folate in the nutrition label of a food bearing a health claim about the relationship between folate and a reduced risk of neural tube defects.

Section 101.100(d) provides that any agreement that forms the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act be in writing and that a copy of the agreement be made available to us upon request. Section 101.100 also contains reporting and disclosure requirements as conditions for claiming certain labeling exemptions (*e.g.,* 101.100(h)).

Regulations in part 102 define the information that must be included as part of the statement of identity for particular foods and prescribe related labeling requirements for some of these foods. For example, § 102.22 requires that the name of a protein hydrolysate will include the identity of the food source from which the protein was derived.

Part 104, which pertains to nutritional quality guidelines for foods, cross references several labeling provisions in part 101 but contains no separate information collection requirements.

Part 105 contains special labeling requirements for hypoallergenic foods, infant foods, and certain foods represented as useful in reducing or maintaining body weight.

The purpose of our food labeling requirements is to allow consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables a consumer to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to us provide the basis for us to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable us to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the FD&C Act or the FPLA.

Description of Respondents: Respondents to this information collection are manufacturers, packers, and distributors of food products. Because of the existence of exemptions and exceptions, not all of the requirements apply to all food producers or to all of their products. Some of the regulations affect food retailers, such as supermarkets and restaurants.

In the **Federal Register** of December 30, 2016 (81 FR 96462), FDA published a 60-day notice requesting public comment on the proposed collection of information. In this notice, FDA did not accurately reflect amendments approved in the final rule, technical amendments for 21 CFR parts 1, 100, 101, and 104, ''Food Labeling; Technical Amendments,'' dated August 29, 2016 (81 FR 59129), which changed section 101.105 to section 101.7. This has been corrected in this notice. In addition, FDA received two comments from the 60-day notice. One comment was not related to the PRA and will not be addressed here, and one comment was PRA-related and is addressed in this document.

(Comment) One commenter stated that ensuring that food is labeled accurately and correctly is important because people should know exactly what is inside of different foods. Labeling food accurately and correctly ensures no information about the food is hidden because some people have allergies, and people should be allowed to provide feedback.

(Response) FDA agrees with this comment, and this collection of information reinforces that food should be labeled accurately, with no hidden ingredients, for the public's health and safety. In addition, the renewal of this collection of information provides the public the opportunity to comment and provide feedback on this collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]

21 CFR section/part	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
101.3, 101.22, 102, and 104; statement of identity labeling requirements ...	25,000	1.03	25,750	.5 (30 minutes)	12,875
101.4, 101.22, 101.100, 102, 104 and 105; ingredient labeling requirements.	25,000	1.03	25,750	1	25,750
101.5; requirement to specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product.	25,000	1.03	25,750	.25 (15 minutes) ...	6,438
101.9, 101.13(n), 101.14(d)(3), 101.62, and 104; labeling requirements for disclosure of nutrition information.	25,000	1.03	25,750	.40 (24 minutes) ...	103,000
101.9(g)(9) and 101.36(f)(2); alternative means of compliance permitted	12	1	12	4	48
101.10; requirements for nutrition labeling of restaurant foods	300,000	1.5	450,000	.25 (15 minutes) ...	112,500
101.12(b); RACC for baking powder, baking soda and pectin	29	2.3	67	1	67

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]—Continued

21 CFR section/part	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
101.12(e); adjustment to the RACC of an aerated food permitted	25	1	25	1	25
101.12(g); requirement to disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC.	5,000	1	5,000	1	5,000
101.13(d)(1) and 101.67; requirements to disclose nutrition information for any food product for which a nutrient content claim is made.	200	1	200	1	200
101.13(j)(2), 101.13(k), 101.54, 101.56, 101.60, 101.61, and 101.62; additional disclosure required if the nutrient content claim compares the level of a nutrient in one food with the level of the same nutrient in another food.	5,000	1	5,000	1	5,000
101.13(q)(5); requirement that restaurants disclose the basis for nutrient content claims made for their food.	300,000	1.5	450,000	.75 (45 minutes)	337,500
101.14(d)(2); general requirements for disclosure of nutrition information related to health claims for food products.	300,000	1.5	450,000	.75 (45 minutes)	337,500
101.15; requirements pertaining to prominence of required statements and use of foreign language.	160	10	1,600	8	12,800
101.22(i)(4); supplier certifications for flavors designated as containing no artificial flavors.	25	1	25	1	25
101.30 and 102.33; labeling requirements for fruit or vegetable juice beverages.	1,500	5	7,500	1	7,500
101.36; nutrition labeling of dietary supplements	300	40	12,000	4.025	48,300
101.42 and 101.45; nutrition labeling of raw fruits, vegetables, and fish	1,000	1	1,000	.5 (30 minutes)	500
101.45(c); databases of nutrient values for raw fruits, vegetables, and fish	5	4	20	4	80
101.79(c)(2)(i)(D); disclosure requirements for food labels that contain a folate/neural tube defect health claim.	1,000	1	1,000	.25 (15 minutes)	250
101.79(c)(2)(iv); disclosure of amount of folate for food labels that contain a folate/neural tube defect health claim.	100	1	100	.25 (15 minutes)	25
101.100(d); disclosure of agreements that form the basis for exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act.	1,000	1	1,000	1	1,000
101.7 and 101.100(h); disclosure requirements for food not accurately labeled for quantity of contents and for claiming certain labeling exemptions.	25,000	1.03	25,750	.5 (30 minutes)	12,875
Total					1,029,258

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
101.7(t); recordkeeping pertaining to disclosure requirements for food not accurately labeled for quantity of contents.	100	1	100	1	100
101.12(e); recordkeeping to document the basis for density-adjusted RACC.	25	1	25	1	25
101.13(q)(5); recordkeeping to document the basis for nutrient content claims.	300,000	1.5	450,000	.75 (45 minutes)	337,500
101.14(d)(2); recordkeeping to document nutrition information related to health claims for food products.	300,000	1.5	450,000	.75 (45 minutes)	337,500
101.22(i)(4); recordkeeping to document supplier certifications for flavors designated as containing no artificial flavors.	25	1	25	1	25
101.100(d)(2); recordkeeping pertaining to agreements that form the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act.	1,000	1	1,000	1	1,000
Total					676,150

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section/form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
101.9(j)(18) and 101.36(h)(2); procedure for small business nutrition labeling exemption notice using Form FDA 3570	10,000	1	10,000	8	80,000
101.12(h); petitions to establish or amend a RACC	5	1	5	80	400
101.69; petitions for nutrient content claims	3	1	3	25	75
101.70; petitions for health claims	5	1	5	80	400
101.108; written proposal for requesting temporary exemptions from certain regulations for the purpose of conducting food labeling experiments	1	1	1	40	40
Total					80,915

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated annual third party disclosure, recordkeeping, and reporting burdens are based on our communications with industry and our knowledge of and experience with food labeling and the submission of petitions and requests to us.

We expect that the burden hours for submissions under § 101.108 will be insignificant. Section 101.108 was originally issued to provide a procedure whereby we could grant exemptions from certain food labeling requirements. Exemption petitions have infrequently been submitted in the recent past; none have been submitted since publication on January 6, 1993, of the final regulations implementing section 403(q) and (r) of the FD&C Act. Thus, in order to maintain OMB approval of § 101.108 to accommodate the possibility that a food producer may propose to conduct a labeling experiment on its own initiative, we estimate that we will receive one or fewer submissions under § 101.108 in the next 3 years.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12443 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0487]

Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.''

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, 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–2014–N–0487 for ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' Received comments, those filed in a timely manner (see **DATES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management 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 Division of Dockets Management. 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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov,* 301–796–8867.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the

Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—OMB Control Number 0910–0697—Extension

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address the following: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Focus groups	800	1	800	1.75	1,400
Customer comment cards/forms	1,325	1	1,325	.25 (15 minutes)	331.25
Small discussion groups	800	1	800	1.75	1,400
Customer satisfaction surveys	12,000	1	12,000	.33 (20 minutes)	3,960
Total					7,091.25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12450 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1027]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions in FDA's infant formula recall regulations.

DATES: Submit either electronic or written comments on the collection of information by August 14, 2017.

ADDRESSES: You may submit comments as follows. Please note that late,

untimely filed comments will not be considered. Electronic comments must be submitted on or before August 14, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 14, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1027 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Recall Regulations.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR–2015–09–18/pdf/2015–23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Infant Formula Recall Regulations—21 CFR 107.230, 107.240, 107.250, 107.260, and 107.280 OMB Control Number 0910–0188—Extension

Section 412(e) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 350a(e)) provides that if the manufacturer of an infant formula has knowledge that reasonably supports the conclusion that an infant formula processed by that manufacturer has left its control and may not provide the nutrients required in section 412(i) of the FD&C Act or is otherwise adulterated or misbranded, the manufacturer must promptly notify the Secretary of Health and Human Services (the Secretary). If the Secretary determines that the infant formula presents a risk to human health, the manufacturer must immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary. Section 412(f)(2) of the FD&C Act states that the Secretary shall by regulation prescribe the scope and extent of recalls of infant formula necessary and appropriate for the degree of risk to human health presented by the formula subject to

recall. FDA's infant formula recall regulations in part 107 (21 CFR part 107) implement these statutory provisions.

Section 107.230 (21 CFR 107.230) requires each recalling firm to conduct an infant formula recall with the following elements: (1) Evaluate the hazard to human health, (2) devise a written recall strategy, (3) promptly notify each affected direct account (customer) about the recall, and (4) furnish the appropriate FDA district office with copies of these documents. If the recalled formula presents a risk to human health, the recalling firm must also request that each establishment that sells the recalled formula post (at point of purchase) a notice of the recall and provide FDA with a copy of the notice. Section 107.240 requires the recalling firm to conduct an infant formula recall with the following elements: (1) Notify the appropriate FDA district office of the recall by telephone within 24 hours, (2) submit a written report to that office within 14 days, and (3) submit a written status report at least every 14 days until the recall is terminated. Before terminating a recall, the recalling firm is required to submit a recommendation for termination of the recall to the appropriate FDA district office and wait for FDA's written concurrence (§ 107.250). Where the recall strategy or implementation is determined to be deficient, FDA may require the firm to change the extent of the recall, carry out additional effectiveness checks, and issue additional notifications (§ 107.260). In addition, to facilitate location of the product being recalled, the recalling firm is required to maintain distribution records for at least 1 year after the expiration of the shelf life of the infant formula (§ 107.280).

The reporting and recordkeeping requirements described previously are designed to enable FDA to monitor the effectiveness of infant formula recalls in order to protect babies from infant formula that may be unsafe because of contamination, nutritional inadequacy, or is otherwise adulterated or misbranded. FDA uses the information collected under these regulations to help ensure that such products are quickly and efficiently removed from the market.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
107.230; Elements of infant formula recall	2	1	2	4,450	8,900
107.240; Notification requirements	2	1	2	1,482	2,964
107.250; Termination of infant formula recall	2	1	2	120	240
107.260; Revision of an infant formula recall [2]	1	1	1	625	625
Total [2]					

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] No burden has been estimated for the recordkeeping requirement in § 107.280 because these records are maintained as a usual and customary part of normal business activities. Manufacturers keep infant formula distribution records for the prescribed period as a matter of routine business practice.

The reporting and third-party disclosure burden estimates are based on FDA's records, which show that there are six manufacturers of infant formula and that there have been, on average, two infant formula recalls per year for the past 3 years. Based on this information, FDA estimates that there will be, on average, approximately two infant formula recalls per year over the next 3 years.

Thus, FDA estimates that two respondents will conduct recalls annually under §§ 107.230, 107.240, and 107.250. The estimated number of respondents for § 107.260 is minimal because FDA seldom uses this section; therefore, FDA estimates that there will be one or fewer respondents annually for § 107.260. The estimated number of hours per response is an average based on FDA's experience and information from firms that have conducted recalls. FDA estimates that two respondents will conduct infant formula recalls under § 107.230 and that it will take a respondent 4,450 hours to comply with the requirements of that section, for a total of 8,900 hours. FDA estimates that two respondents will conduct infant formula recalls under § 107.240 and that it will take a respondent 1,482 hours to comply with the requirements of that section, for a total of 2,964 hours. FDA estimates that two respondents will submit recommendations for termination of infant formula recalls under § 107.250 and that it will take a respondent 120 hours to comply with the requirements of that section, for a total of 240 hours. Finally, FDA estimates that one respondent will need to carry out additional effectiveness checks and issue additional notifications, for a total of 625 hours.

Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities. No burden has been estimated for the recordkeeping requirement in § 107.280 because these records are maintained as a usual and customary part of normal business activities. Manufacturers keep infant formula distribution records for the prescribed period as a matter of routine business practice.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
107.230; Elements of infant formula recall	2	1	2	50	100

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]—Continued

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
107.260; Revision of an infant formula recall	1	1	1	25	25
Total [2]					

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 2 reports FDA's third-party disclosure burden estimates for §§ 107.230 and 107.260. The estimated burden hours per disclosure is an average based on FDA's experience. The third-party disclosure burden in § 107.230 is the requirement to promptly notify each affected direct account (customer) about the recall, and if the recalled formula presents a risk to human health, the recalling firm must also request that each establishment that sells the recalled formula post a notice of the recall at the point of purchase. FDA estimates that two respondents will conduct infant formula recalls under § 107.230 and that it will take a respondent 50 hours to comply with the third-party disclosure requirements of that section, for a total of 100 hours. The third-party disclosure burden in § 107.260 is the requirement to issue additional notifications where the recall strategy or implementation is determined to be deficient. FDA estimates that one respondent will issue additional notifications under § 107.260 and that it will take a respondent 25 hours to comply with the third-party disclosure requirements of that section, for a total of 25 hours.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12437 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0655]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Animal Generic Drug User Fee Act Cover Sheet

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 17, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0632. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *301–796–7726, PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Form FDA 3728, Animal Generic User Fee Act Cover Sheet—21 U.S.C. 379j–21—OMB Control Number 0910–0632—Extension

Section 741 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379j–21) establishes three different kinds of user fees: (1) Fees for certain types of abbreviated applications for generic new animal drugs; (2) annual fees for certain generic new animal drug products; and (3) annual fees for certain sponsors of abbreviated applications for generic new animal drugs and/or investigational submissions for generic new animal drugs (21 U.S.C. 379j–21(a)). Because concurrent submission of user fees with applications is required, the review of an application cannot begin until the fee is submitted. Form FDA 3728 is the Animal Generic Drug User Fee Act (AGDUFA) Cover Sheet, which is designed to collect the minimum necessary information to determine whether a fee is required for review of an application, to determine the amount of the fee required, and to account for and track user fees. The form, when completed electronically, will result in the generation of a unique payment identification number used by FDA to track the payment. It will be used by FDA's Center for Veterinary Medicine and FDA's Office of Financial Management to initiate the administrative screening of new generic animal drug applications to determine if payment has been received.

In the **Federal Register** of September 2, 2016 (81 FR 60707), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
3728	20	2	40	.08 (5 minutes)	3.2

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents to this collection of information are new generic animal drug applicants. Based on Agency data for the past 3 years, FDA estimates there are approximately 40 submissions annually and a total of 3.2 burden hours. The burden for this information collection has not changed since the last OMB approval.

Dated: June 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12432 Filed 6–14–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: Application and Other Forms Utilized by the National Health Service Corps (NHSC) Scholarship Program (SP), the NHSC Students To Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP), OMB No. 0915–0146—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 17, 2017.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Application and Other Forms Utilized by the National Health Service Corps (NHSC) Scholarship Program (SP), the NHSC Students to Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP), OMB No. 0915–0146—Revision

Abstract: Administered by HRSA's Bureau of Health Workforce (BHW), the NHSC SP, NHSC S2S LRP, and the NHHSP provide scholarships or loan repayment to qualified students who are pursuing primary care health professions education and training. In return, students agree to provide primary health care services in medically underserved communities located in federally designated Health Professional Shortage Areas once they are fully trained and licensed health professionals. Awards are made to applicants who demonstrate the greatest potential for successful completion of their education and training as well as commitment to provide primary health care services to communities of greatest need. The information from program applications, forms, and supporting documentation is used to select the best qualified candidates for these competitive awards, and to monitor program participants' enrollment in school, postgraduate training, and compliance with program requirements. The revisions to this information collection request include the removal of two forms for the NHSC S2S LRP application section.

Although some program forms vary from program to program (see program-specific burden charts below), required forms generally include: A program application, academic and non-academic letters of recommendation, the authorization to release information, and the acceptance/verification of good standing report. Additional forms for the NHSC SP include the data collection worksheet, which is completed by the educational institutions of program participants; the post graduate training verification form (also applicable for NHSC S2S LRP participants), which is completed by program participants and their residency director; and the enrollment verification form, which is completed by program participants and the educational institution for each academic term.

Need and Proposed Use of the Information: The NHSC SP, S2S LRP, and NHHSP applications, forms, and supporting documentation are used to collect necessary information from applicants that will enable BHW to make selection determinations for the competitive awards, and to monitor compliance with program requirements.

Likely Respondents: Qualified students who are pursuing education and training in primary care health professions education and training, and are interested in working in health professional shortage areas.

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 revision contributes to a reduction of burden of approximately 100 hours. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden—Hours

NHSC SCHOLARSHIP PROGRAM APPLICATION

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC Scholarship Program Application	1,800	1	1,800	2.0	3,600
Letters of Recommendation	1,800	2	3,600	.50	1,800
Authorization to Release Information	1,800	1	1,800	.10	180
Acceptance/Verification of Good Standing Report	1,800	1	1,800	.25	450
Receipt of Exceptional Financial Need Scholarship	200	1	200	.25	50
Verification of Disadvantaged Background Status	300	1	300	.25	75
Total	*1,800		9,500		6,155

*Certain documents are submitted by a subset of respondents consistent with program requirements.

NHSC AWARDEES/SCHOOLS/POST GRADUATE TRAINING PROGRAMS/SITES

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Data Collection Worksheet	400	1	400	1.0	400
Post Graduate Training Verification Form	100	1	100	.50	50
Enrollment Verification Form	600	2	1,200	.50	600
Total	*600		1,700		1,050

*Please note that the same group of respondents may complete each form as necessary.

NHSC STUDENTS TO SERVICE LOAN REPAYMENT PROGRAM APPLICATION

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC Students to Service Loan Repayment Program Application	100	1	100	2.0	200
Letters of Recommendation	100	2	200	.50	100
Authorization to Release Information	100	1	100	.10	10
Acceptance/Verification of Good Standing Report	100	1	100	.25	25
Verification of Disadvantaged Background Status	25	1	25	.25	6.25
Total	*150		525		341.25

*Certain documents are submitted by a subset of respondents consistent with program requirements.

NATIVE HAWAIIAN HEALTH SCHOLARSHIP PROGRAM APPLICATION

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Native Hawaiian Health Scholarship Program Application	250	1	250	1.0	250
Letters of Recommendation	250	2	500	.25	125
Authorization to Release Information	250	1	250	.25	62.50
Acceptance/Verification of Good Standing Report	30	12	360	.25	90
Total	*250		1,360		527.50

*Certain documents are submitted by a subset of respondents consistent with program requirements.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–12382 Filed 6–14–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, June 19, 2017, 5:30 p.m. to June 21, 2017, 5:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, C Wing, 6th Floor, Conference Room 10, Bethesda, MD, 20892 which was published in the **Federal Register** on May 24, 2017, 82 FR 23816.

The meeting notice is being amended to change the start time of the joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors meeting on June 21, 2017 to 9:00 a.m. Additionally, the BSA Ad Hoc Subcommittee on HIV and AIDS Malignancy meeting on June 21, 2017 will now be held in Conference Room 7 at National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892 and will adjourn at 7:00 p.m.

Dated: June 12, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12386 Filed 6–14–17; 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 (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Mammalian Models for Translational Research.

Date: June 27, 2017.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sharon K. Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6195D, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: July 6–7, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Physical Activity and Weight Control Interventions Among Cancer Survivors: Effects on Biomarkers of Prognosis and Survival.

Date: July 7, 2017.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Addictions, Depression, Bipolar Disorder, and Schizophrenia.

Date: July 10, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risk, Prevention, and Health Behavior.

Date: July 10–11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Martha M. Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 435–3575, *faradaym@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurocognition, Attention, and Motor Function in Aging.

Date: July 10, 2017.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samantha Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, 301–827–5491, *samanthasmith@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: June 9, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12364 Filed 6–14–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Role of Exosomes in Alzheimer's Pathogenesis.

Date: July 7, 2017.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Ave., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: ANITA H UNDALE, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 240–747–7825, *anita.undale@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 9, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12388 Filed 6–14–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Application To Participate in the National Institutes of Health Technical Assistance Programs: Commercialization Accelerator Program (CAP)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: J.P. Kim, NIH SBIR/STTR Program Manager & NIH Extramural Data Sharing Policy Officer, Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Office, Office of Extramural Programs (OEP)/Office of Extramural Research (OER), Office of the Director (OD)/National Institutes of Health (NIH), 6705 Rockledge Drive, Suite 350, Bethesda, Maryland 20892–7963 or call non-toll-free number (301) 435–0189 or Email your request, including your address to: *jpkim@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Application to Participate in the National Institutes of Health Technical Assistance Programs: Commercialization Accelerator Program (CAP)—0925—Existing Without OMB Approval.

Need and Use of Information Collection: The purpose of this application is to collect information to be used internally by the NIH SBIR/STTR staff to identify and select small businesses that would most benefit if selected as participants in the NIH Commercialization Accelerator Program (CAP). The data will not be used to formulate or change policies. Rather, it will be used to enable NIH SBIR/STTR staff to be responsive to its constituents by offering commercialization training to meet the goals of the Phase II small business NIH awardees. The form will be online for any potential CAP applicant companies and completed electronically.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 150.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
SBIR Phase II Awardees	100	1	90/60	150
Total	100	100	.....	150

Dated: June 9, 2017.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2017–12440 Filed 6–14–17; 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 (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Academic Research Enhancement Award.

Date: July 6, 2017.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 4158, MSC 7806, Bethesda, MD 20892, 301–435–1256, *biesj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–315 Counter Act Exploratory Grants.

Date: July 7, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 2 North Charles Street, Baltimore, MD 21201.

Contact Person: Geoffrey G Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16–027: Commercialization Readiness Pilot.

Date: July 7, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Cristina Backman, Ph.D., Scientific Review Officer, ETTN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, 301–480–9069, *cbackman@mail.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS-associated Opportunistic Infections and Cancer Study Section.

Date: July 7, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Seasons Hotel, 1111 14th St., Denver, CO 80202.

Contact Person: Eduardo A. Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Emerging Technologies in Neuroscience.

Date: July 7, 2017.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sharon S. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 5104, Bethesda, MD 20892–5104, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Clinical Neurological and Neuropsychiatric Disorders and Aging.

Date: July 7, 2017.

Time: 11:00 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 (Telephone Conference Call).

Contact Person: Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@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: June 9, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12363 Filed 6–14–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Emerging Technologies Review I.

Date: July 10–11, 2017.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, MD 20852.

Contact Person: Shamala K. Srinivas, Ph.D., Scientific Review Officer, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W539, Bethesda, MD 20892–9750, 240–276–6442, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Emerging Technologies Review II.

Date: July 10–11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, MD 20852.

Contact Person: Caterina Bianco, MD, Ph.D., Acting Chief, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Bethesda, MD 20892–9750, 240–276–6459, *biancoc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Informatics Tools for Cancer Surveillance.

Date: July 27, 2017.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 6W030, Bethesda, MD 20892–9750, (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W260, Bethesda, MD 20892–9750, 240–276–5856, *nadeem.khan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 9, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12387 Filed 6–14–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention

(CSAP) National Advisory Council will meet on August 2, 2017, 3:30 p.m.–4:30 p.m., in Rockville, MD.

The meeting will include the review, discussion, and evaluation of grant applications reviewed by the Initial Review Group, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, these meetings will be closed to the public as determined by the Acting Deputy Assistant Secretary for Mental Health and Substance Use, in accordance with Title 5 U.S.C. 552b(c)(4) and (c)(6); and 5 U.S.C. App. 2, Section 10(d).

Committee Name: Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention National Advisory Council.

Date/Time/Type: August 2, 2017 3:30 p.m.–4:30 p.m. (CLOSED).

Place: SAMHSA Building, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Matthew J. Aumen, Designated Federal Officer, SAMHSA/CSAP National Advisory Council, 5600 Fishers Lane, Rockville, MD 20857, Email: *Matthew.Aumen@samhsa.hhs.gov.*

Carlos R. Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2017–12435 Filed 6–14–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2017–N054; FXES11130300000–178–FF03E00000]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to enhance the survival of endangered or threatened species. Federal law prohibits certain activities with endangered species unless a permit is obtained.

DATES: We must receive any written comments on or before July 17, 2017.

ADDRESSES: Send written comments by U.S. mail to the Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; or by electronic mail to *permitsR3ES@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Carlita Payne, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless the activities are specifically authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A permit granted by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the permit number when you submit comments. Documents and other information the applicants have submitted with the applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Applications

Proposed activities in the following permit requests are for the recovery and enhancement of survival of the species in the wild.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE24914C	Northern Research Station, U.S. Forest Service, Amherst, MA.	Rusty patched bumble bee (*Bombus affinis*).	Michigan, Minnesota, Wisconsin.	Conduct presence/absence surveys.	Capture, handle, hold, release.	New.
TE82665A	Melody Myers-Kinzie, Indianapolis, IN.	Clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), northern riffleshell (*Epioblasma torulosa rangiana*), pink mucket (pearlymussel) (*Lampsilis abrupta*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*Villosa fabalis*), rough pigtoe (*Pleurobema plenum*), sheepnose mussel (*Plethobasus cyphyus*), snuffbox mussel (*Epioblasma triquetra*), spectaclecase (mussel) (*Cumberlandia monodonta*), white catspaw (pearlymussel) (*Epioblasma obliquata perobliqua*), winged mapleleaf (*Quadrula fragosa*).	Illinois, Indiana, Iowa, Michigan, Ohio, Wisconsin.	Conduct presence/ab-sence surveys.	Capture, handle, release.	Renew.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE26921C	World Bird Sanctuary, Valley Park, MO.	Least tern (interior population) (*Sterna antillarum*).	Missouri	Conduct presence/absence surveys; evaluate site fidelity, dispersal patterns, and longevity.	Capture, handle, band, release.	New.
TE26856C	Sean M. Langley, Tipton, IN.	Indiana bat (*Myotis sodalis*), northern long-eared bat (*M. septentrionalis*).	Rangewide	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, radio-tag, light-tag, pit-tag, band, wing biopsy, enter hibernacula and maternity sites, release, salvage.	New.
TE26855C	Jeanette C. Bailey, Makanda, IL.	Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), northern long-eared bat (*M. septentrionalis*).	Rangewide	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, release.	New.
TE26854C	Brenna A. Hyzy, Stevens Point, WI.	Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), northern long-eared bat (*M. septentrionalis*).	Rangewide	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, radio-tag, release.	New.
TE64071B	Gerald L. Zuercher, Dubuque, IA.	Indiana bat (*Myotis sodalis*), northern long-eared bat (*M. septentrionalis*).	Illinois, Iowa	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, radio-tag, release.	Amend.
TE26953C	Karen Goodell, Newark, OH.	Rusty patched bumble bee (*Bombus affinis*).	Ohio	Conduct presence/absence surveys, collect tarsus and antennae clippings.	Capture, handle, hold, and clip tarsus or antennae, release.	New.
TE26975C	University of Minnesota, Saint Paul, MN.	Karner blue butterfly (*Lycaeides melissa samuelis*).	Minnesota	Capture, propagate, transport, release.	Capture, handle, hold, transport, release.	New.
TE27007C	Minnesota Department of Transportation, Saint Paul, MN.	Northern long-eared bat (*Myotis septentrionalis*), rusty patched bumble bee (*Bombus affinis*).	Minnesota	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, hold, release.	New.
TE38085B	Mountain State Biosurveys, LLC, Glenwood, WV.	Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), northern long-eared bat (*M. septentrionalis*).	Rangewide	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, release.	Amend, renew.

National Environmental Policy Act

The proposed activities in the requested permits qualify as categorical exclusions under the National Environmental Policy Act, as provided by Department of the Interior implementing regulations in part 46 of title 43 of the CFR (43 CFR 46.205, 46.210, and 46.215).

Public Availability of Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive in response to this notice are available for public inspection, by appointment, during normal business hours at the address listed above in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: March 31, 2017.

Lori H. Nordstrom,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2017–12399 Filed 6–14–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2017–N073; FXES11130300000–178–FF03E00000]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to enhance the survival of endangered or threatened species. Federal law prohibits certain activities with endangered species unless a permit is obtained.

DATES: We must receive any written comments on or before July 17, 2017.

ADDRESSES: Send written comments by U.S. mail to the Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; or by electronic mail to *permitsR3ES@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Carlita Payne, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless the activities are specifically authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A permit granted by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the permit number when you submit comments. Documents and other information the applicants have submitted with the applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Applications

Proposed activities in the following permit requests are for the recovery and enhancement of survival of the species in the wild.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE71720A	Forest Preserve District of Will County, Plainfield, IL.	Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*).	Illinois, Indiana, Ohio, Wisconsin.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, band, release.	Renew.
TE30603C	Diehlux LLC, Bloomfield, NY.	Rusty patched bumble bee (*Bombus affinis*).	Rangewide	Conduct presence/absence surveys.	Capture, handle, hold, release.	Amend.
TE30472C	Elaine Evans, St. Paul, MN.	Rusty patched bumble bee (*Bombus affinis*).	Michigan, Minnesota	Conduct presence/absence surveys.	Capture, handle, hold, release.	New.
TE30471C	Randall Mitchell, Akron, OH.	Rusty patched bumble bee (*Bombus affinis*).	Ohio	Conduct presence/absence surveys.	Capture, handle, hold, release.	New.
TE71041B	Iwona Kuczynska, Crestwood, MO.	Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), northern long-eared bat (*M. septentrionalis*), Ozark big-eared bat (*Plecotus townsendii ingens*).	Rangewide	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, radio-tag, band, wing biopsy, enter caves and mine portals, release.	Amend.

National Environmental Policy Act

The proposed activities in the requested permits qualify as categorical exclusions under the National Environmental Policy Act, as provided by Department of the Interior implementing regulations in part 46 of title 43 of the CFR (43 CFR 46.205, 46.210, and 46.215).

Public Availability of Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive in response to this notice are available for public inspection, by appointment, during normal business hours at the address listed above in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: April 27, 2017.

Lori H. Nordstrom,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2017–12400 Filed 6–14–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–MB–2017–0028; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB73

Migratory Bird Hunting; Service Regulations Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service) will conduct an open meeting in June 2017 to identify and discuss preliminary issues concerning the 2018–19 migratory bird hunting regulations.

DATES: The meeting will be held June 21, 2017. The meeting will commence at approximately 11:00 a.m. and is open to the public.

ADDRESSES: The Service Regulations Committee meeting will be in the Rachel Carson conference room at 5275 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1967.

SUPPLEMENTARY INFORMATION: Under the authority of the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Service regulates the hunting of migratory game birds. We update the migratory game bird hunting regulations, located in title 50 of the Code of Federal Regulations in part 20, annually. Through these regulations, we establish the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. To help us in this process, we have administratively divided the nation into four Flyways (Atlantic, Mississippi, Central, and Pacific), each of which has a Flyway Council. Representatives from the Service, the Service's Migratory Bird Regulations Committee, and Flyway Council Consultants will meet on June 21, 2017, at 11:00 a.m. to identify preliminary issues concerning the 2018–19 migratory bird hunting regulations for discussion and review by the Flyway Councils at their August and September meetings.

In accordance with Department of the Interior (hereinafter Department) policy regarding meetings of the Service Regulations Committee attended by any person outside the Department, these meetings are open to public observation. The Service is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the person listed under **FOR FURTHER INFORMATION CONTACT**, TTY 800–877–8339, with your request by close of business on June 14, 2017.

Dated: May 15, 2017.

Jerome Ford,

Assistant Director, Migratory Birds, U.S. Fish and Wildlife Service.

[FR Doc. 2017–12384 Filed 6–14–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G]

Agency Information Collection Activities: OMB Control Number 1076–0177; Tribal Energy Development Capacity Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Tribal Energy Development Capacity (TEDC) program authorized by OMB Control Number 1076–0177. This information collection expires August 31, 2017.

DATES: Submit comments on or before August 14, 2017.

ADDRESSES: You may submit comments on the information collection to Mr. Chandler Allen, Division of Energy and Mineral Development, Office of Indian Energy and Economic Development, Assistant Secretary—Indian Affairs, 13922 Denver West Parkway, Suite 200, Lakewood, CO 80401; facsimile: (303) 969–5273; email: *Chandler.Allen@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Chandler Allen, telephone: (720) 407–0607.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Energy Policy Act of 2005 authorizes the Secretary of the Interior to provide assistance to Indian Tribes and Tribal energy resource development organizations for energy development and appropriates funds for such projects on a year-to-year basis. *See* 25 U.S.C. 3502. When funding is available, the Office of Indian Energy and Economic Development (IEED) may solicit proposals for projects for building capacity for Tribal energy resource development on Indian land from Tribal energy resource development organizations and Indian Tribes, including Alaska Native regional and village corporations under the TEDC program. For the purposes of this program, ''Indian land'' includes: All land within the boundaries of an Indian reservation, pueblo, or rancheria; any land outside those boundaries that is held by the United States in trust for a Tribe or individual Indian or by a Tribe or individual Indian with restrictions on alienation; and land owned by an Alaska Native regional or village corporation.

Those who would like to submit a TEDC project proposal must submit an application that includes certain information and, once funding is received must submit reports on how they are using the funding. A complete application must contain the following:

- A formal signed resolution of the governing body of the Tribe or Tribal energy resource development organization demonstrating authority to apply;
- A proposal describing the planned activities and deliverable products; and
- A detailed budget estimate, including contracted personnel costs, travel estimates, data collection and analysis costs, and other expenses.

The project proposal must include the information about the Tribe or Tribal energy resource development organization sufficient to allow IEED to evaluate the proposal based on the following criteria:

(a) Energy resource potential;

(b) Applicant's energy resource development history and current status;

(c) Applicant's existing energy resource development capabilities;

(d) Demonstrated willingness of the applicant to establish and maintain an independent energy resource development business entity;

(e) Intent to develop and retain energy development capacity within the applicant's government or business entities; and

(f) Applicant commitment of staff, training, or monetary resources.

The IEED requires this information to ensure that it provides funding only to those projects that meet the goals of the TEDC and the purposes for which Congress provides the appropriations.

II. Request for Comments

The IEED requests your comments on this collection concerning: (a) The

necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0177.

Title: Tribal Energy Development Capacity Program Grants.

Brief Description of Collection: Indian Tribes and Tribal energy resource development organizations that would like to apply for TEDC funding must submit an application that includes certain information. A complete application must contain a formal signed resolution of the governing body of the Tribe or Tribal energy resource development organization, a proposal describing the planned activities and deliverable products; and a detailed budget estimate, including contracted personnel costs, travel estimates, data collection and analysis costs, and other expenses. The IEED requires this information to ensure that it provides funding only to those projects that meet the goals of the TEDC program and purposes for which Congress provides the appropriation. Upon acceptance of an application, the successful applicant must then submit one- to two-page progress reports twice during the grant period summarizing events, accomplishments, problems and/or results in executing the project.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian Tribes and Tribal energy resource development organizations under 25 U.S.C. 3502.

Number of Respondents: 27 per year, on average; 13 project participants each year, on average.

Frequency of Response: Once per year for applications; 4 times per year for progress reports.

Estimated Time per Response: 40 hours per application; 1.5 hours per progress report.

Obligation to Respond: Response is required to obtain a benefit.

Estimated Total Annual Hour Burden: 1,158 hours (1,080 for applications and 78 for progress reports).

Estimated Total Annual Non-Hour Dollar Cost: $0.

Authority

The authorities for this action are the Energy Policy Act of 2005, 25 U.S.C. 3502, and the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2017–12444 Filed 6–14–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02800000, 17XR0680A3, RX178689471000000]

Draft Environmental Impact Statement for Shasta Dam Fish Passage Evaluation, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent and scoping meetings.

SUMMARY: The Bureau of Reclamation intends to prepare an Environmental Impact Statement (EIS) for the Shasta Dam Fish Passage Evaluation. The document will evaluate the program that will be used to implement the near-term actions identified under Action V in the National Marine Fisheries Service's 2009 Biological Opinion and Conference Opinion on the Long-Term Operation of the Central Valley Project and State Water Project Reasonable and Prudent Alternative. This EIS will evaluate the near-term actions of reintroducing Federally-listed endangered winter-run Chinook salmon and potentially spring-run Chinook salmon to historical habitats.

DATES: Submit written comments on the scope of the EIS on or before July 21, 2017.

Oral and written comments will also be accepted during two scoping meetings held to solicit public input on alternatives, concerns, and issues to be addressed in the EIS:

1. Tuesday, June 27, 2017, 2–4 p.m., Sacramento, CA.

2. Wednesday, June 28, 2017, 6–8 p.m., Lakehead, CA.

ADDRESSES: Send written comments to Carolyn Bragg, Natural Resources Specialist, Bureau of Reclamation, Bay-Delta Office, 801 I Street, Suite 140, Sacramento, CA 95814–2536; fax to (916) 414–2439; or email at *cbragg@usbr.gov.*

The scoping meetings will be held at the following locations:

1. Sacramento—Federal Building, Cafeteria Room C–1001, 2800 Cottage Way, Sacramento, CA 95825.

2. Lakehead—Lakehead Lions Club, 20814 Mammoth Drive, Lakehead, CA 96051.

FOR FURTHER INFORMATION CONTACT: Carolyn Bragg, (916) 414–2433, fax (916) 414–2439, or email *cbragg@usbr.gov.*

SUPPLEMENTARY INFORMATION:

I. Agencies Involved

The Bureau of Reclamation (Reclamation) will invite the following agencies to participate as cooperating agencies for the preparation of the EIS in accordance with the National Environmental Policy Act (NEPA): National Marine Fisheries Service, U.S. Fish and Wildlife Service, U.S. Forest Service, California Department of Fish and Wildlife, California Department of Water Resources, California State Water Resources Control Board, Shasta County, Siskiyou County, and additional Federal and State agencies with jurisdiction in the project area.

II. Why We Are Taking This Action

The National Marine Fisheries Service's 2009 Biological Opinion and Conference Opinion on the Long-term Operation of the Central Valley Project and State Water Project (NMFS BO) concluded that the continued operation of the Central Valley Project and the State Water Project were likely to jeopardize the continued existence of four anadromous species listed under the federal Endangered Species Act: Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha),* California Central Valley steelhead (*Oncorhynchus mykiss*), and the Southern Distinct Population Segment of North American green sturgeon *(Acipenser medirostris*). The NMFS BO sets forth a Reasonable and Prudent

Alternative (RPA) that if implemented, will allow the Central Valley Project and State Water Project to operate in compliance with the Endangered Species Act.

RPA Action V includes an evaluation of the potential reintroduction of Federally-listed Chinook salmon and steelhead to historical habitats. Shasta Dam Fish Passage Evaluation (SDFPE) is an effort to determine the feasibility of reintroducing winter-run and spring-run Chinook salmon and steelhead to tributaries above Shasta Dam. The SDFPE is separated into near-term and long-term actions. As part of the requirements of the RPA, Reclamation, in coordination with the Interagency Fish Passage Steering Committee, is developing the Pilot Program as an adaptive management process to evaluate the near-term reintroduction of Chinook salmon into historical habitat above Shasta Dam.

Reclamation is focusing the initial near-term goals of re-introducing winter-run and potentially spring-run Chinook salmon upstream of Shasta Dam as the location based on: a) the imperiled status of winter-run Chinook salmon and the resulting urgency to move these fish back into their historical habitats as a means of reducing extinction risk; and b) the good habitat conditions. NMFS requires the use of Federally-listed Sacramento River winter-run Chinook salmon, either from the wild in the Sacramento River and/or the Livingston Stone National Fish Hatchery conservation program in order to meet the goals of RPA Action V.

Reclamation has prepared a Draft Pilot Implementation Plan and an unpublished Preliminary Draft Environmental Assessment for the proposed action, which can be found at *https://www.usbr.gov/mp/BayDeltaOffice/shasta-dam-fish-pass.html.* The initial analysis conducted indicated uncertainties associated with the resources analyzed. Given these uncertainties, Reclamation has decided to prepare an EIS. If the near-term actions indicate that long-term fish passage of listed salmonids is feasible and practical to implement, then in accordance with RPA Action V, Reclamation will develop and implement a Long-Term Fish Passage Program, which would require additional environmental documentation.

III. Purpose and Need for Action

The range of Sacramento River winter-run Chinook salmon has been reduced by Keswick and Shasta dams on the Sacramento River and by hydroelectric dam development on Battle Creek. Currently, Sacramento River winter-run Chinook salmon spawning is limited to the mainstem Sacramento River downstream of Shasta and Keswick dams where the naturally-spawning population is maintained by cool water releases from the dams. Central Valley spring-run Chinook salmon spawning occurs primarily in other Sacramento River tributaries. The need for the proposed action arises from projections of increased incidences of temperature related impacts to listed anadromous fish, and their resulting vulnerability below Shasta Dam. The purpose of the proposed action is to evaluate the feasibility of establishing self-sustaining populations of listed anadromous fish above Shasta Lake. The Pilot Program seeks to do this by evaluating various aspects of reintroduction including the biological and technological challenges.

IV. Project Area

The project area includes Shasta Lake, the Sacramento River from Shasta Lake upstream to Box Canyon Dam, and the McCloud River from Shasta Lake upstream to McCloud Dam. The project area is within Shasta and Siskiyou Counties.

V. Alternatives To Be Considered

The Preliminary Draft Environmental Assessment included analysis of reasonable alternatives that could potentially be considered to meet the purpose and need of the proposed near-term actions of this EIS under Action V for the reintroduction of Federally-listed Chinook salmon to historical habitats. A habitat assessment was conducted of the mainstem reaches of the Upper Sacramento River and McCloud River as part of the development of the Pilot Implementation Plan. The assessment found good habitat conditions in both watersheds. The Pilot Program includes multiple pilot studies intended to be conducted on a short-term basis to answer questions regarding feasibility of a Long-term Fish Passage Program. The Preliminary Draft Environmental Assessment included analysis of two alternatives; introduction of Federally-listed endangered winter-run Chinook salmon and potentially spring-run Chinook salmon to the Upper Sacramento River and McCloud River in different years and the introduction of Federally-listed endangered winter-run Chinook salmon and potentially spring-run Chinook salmon to both the Upper Sacramento River and the McCloud River at the same time. Additional alternatives may be identified during the scoping process, and potential environmental effects of these alternatives will be evaluated in this EIS. The results of the proposed action will facilitate a determination by the Interagency Fish Passage Steering Committee as to whether it is feasible or practical to implement a full-scale and long-term reintroduction of listed anadromous fish in the watershed above Shasta Lake.

VI. Statutory Authority

National Marine Fisheries Service's 2009 Biological Opinion and Conference Opinion on the Long-Term Operation of the Central Valley Project and State Water Project RPA Action V obligates the U.S. Department of Interior, Bureau of Reclamation, to evaluate the feasibility for the reintroduction of winter-run and spring-run Chinook salmon and steelhead upstream of Shasta, Folsom and New Melones dams. NEPA [42 U.S.C. 4321 *et seq.*] requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. As required by NEPA, Reclamation will analyze in the EIS the potential direct, indirect, and cumulative environmental effects that may result from implementation of the proposed action and alternatives, which may include, but are not limited to, the following areas of potential impact: Surface Water Resources, Hazardous Materials, Fisheries and Aquatic Species, Wildlife, Botanical Resources, Visual, Scenic, or Aesthetic Resources, Air Quality, Noise, Transportation, Public Services, and Utilities, Recreation, Cultural Resources, Socioeconomics, Environmental Justice, Indian Trust Assets and Indian Sacred Sites, Global climate change/greenhouse gas emissions.

VII. Request for Comments

The purposes of this notice are:

- To advise other agencies, potentially affected local governments, tribes, and the public of our intention to gather information to support the preparation of an EIS;
- To obtain suggestions and information from other agencies, interested parties, and the public on the scope of alternatives and issues to be addressed in the EIS; and.
- To identify important issues raised by the public related to the development and implementation of the proposed action.

We invite written comments from interested parties to ensure that the full range of alternatives and issues related to the development of the proposed action are identified. Written comments may be submitted by mail, electronic

mail, facsimile transmission or in person listed in the **ADDRESSES** section of this notice. Comments and participation in the scoping process are encouraged.

VIII. Public Disclosure

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.

IX. How To Request Reasonable Accommodation

If special assistance is required at one of the scoping meetings, please contact Carolyn Bragg at the information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or (TTY) 800–877–8339, at least five working days before the meetings. Information regarding this proposed action is available in alternative formats upon request.

Dated: June 9, 2017.

Pablo R. Arroyave,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2017–12398 Filed 6–14–17; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–578 and 731–TA–1368 (Preliminary)]

100- to 150-Seat Large Civil Aircraft From Canada; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of 100- to 150-seat large civil aircraft from Canada, provided for in subheading 8802.40.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of Canada.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On April 27, 2017, The Boeing Company, Chicago, Illinois filed a petition with the Commission and Commerce, alleging that an industry in the United States is threatened with material injury by reason of LTFV and subsidized imports of 100- to 150-seat large civil aircraft from Canada. Accordingly, effective April 27, 2017, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701–TA–578 and antidumping duty investigation No. 731–TA–1368 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 3, 2017 (82 FR 20634). The conference was held in Washington, DC, on May 18, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on June 12, 2017. The views of the Commission are contained in USITC Publication 4702 (June 2017), entitled *100- to 150-Seat Large Civil Aircraft from Canada: Investigation Nos. 701–TA–578 and 731–TA–1368 (Preliminary).*

By order of the Commission.

Issued: June 12, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–12436 Filed 6–14–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1001]

Certain Digital Video Receivers and Hardware and Software Components Thereof Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a recommended determination on remedy and bonding in the above-captioned investigation. The Commission is soliciting submissions from the public on any public interest issues raised by the recommended relief. The ALJ recommended that a limited exclusion order issue against certain digital video receivers and hardware and software components thereof imported by the respondents. The respondents are Comcast Corporation of Philadelphia, PA; Comcast Cable Communications, LLC of Philadelphia, PA; Comcast Cable Communications Management, LLC of Philadelphia, PA; Comcast Business Communications, LLC of Philadelphia, PA; Comcast Holdings Corporation of Philadelphia, PA; Comcast Shared Services, LLC of Chicago, IL; Technicolor SA of Issy-les-Moulineaux, France; Technicolor USA, Inc. of Indianapolis, IN; Technicolor Connected Home USA LLC of Indianapolis, IN; Pace Ltd. of Saltaire, England; Pace Americas, LLC of Boca Raton, FL; Arris International plc of Suwanee, GA; Arris Group Inc. of Suwanee, GA; Arris Technology, Inc. of Horsham, PA; Arris Enterprises Inc. of Suwanee, GA; and Arris Solutions, Inc. of Suwanee, GA. The ALJ also

recommended that cease and desist orders be directed to the respondents. Parties are to file public interest submissions pursuant to Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation, including the complaint and the public record, can be accessed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov,* and 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 (*https://www.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation, it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease-and-desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file, pursuant to 19 CFR 210.50(a)(4), 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 June 9, 2017. Comments should address whether issuance of the limited exclusion order and the cease and desist orders (''the recommended remedial orders'') in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended 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 recommended remedial orders within a commercially reasonable time; and

(v) explain how the recommended remedial orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on July 11, 2017.

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. 1001'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary ((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 nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of 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: June 12, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–12430 Filed 6–14–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–472 (Fourth Review)]

Silicon Metal From China; Notice of Commission Determination To Conduct a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to the Tariff Act of 1930 to determine whether revocation of the antidumping duty order on silicon metal from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date.

DATES: Effective June 5, 2017.

FOR FURTHER INFORMATION CONTACT: Abu B. Kanu (202–205–2597), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On June 5, 2017, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that both the domestic and respondent interested party group responses to its notice of institution (82 FR 12234, March 1, 2017) were adequate.[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 9, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–12378 Filed 6–14–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 6–17]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, July 6, 2017: 10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2017–12552 Filed 6–13–17; 4:15 pm]

BILLING CODE 4410–BA–P

[1] Chairman Schmidtlein dissenting; Commissioner Kieff not participating.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On June 7, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Middle District of Florida in the lawsuit entitled *United States* v. *Johnson Controls, Inc. et al.,* Civil Action No. 6:17–cv–01028–RBD–DCI.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for the recovery of costs that the United States incurred responding to releases of hazardous substances at certain Installation Restoration Program (IRP) Sites at the Cape Canaveral Air Force Station in Brevard County, Florida. The consent decree requires the defendants, Johnson Controls, Inc., IAP World Services, Inc., and IAP Worldwide Services, Inc. to pay $3,300,000 to the United States. In return, the United States agrees not to sue the defendant under sections 106 and 107 of CERCLA at certain IRP Sites at the Cape Canaveral Air Force Station.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Johnson Controls, Inc., et al.,* D.J. Ref. No. 90–11–3–10477/3. 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 Web site: *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 $5.75 (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. 2017–12385 Filed 6–14–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Program Year (PY) 2017 Workforce Innovation and Opportunity Act (WIOA) Allotments; PY 2017 Wagner-Peyser Act Final Allotments and PY 2017 Workforce Information Grants

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces allotments for PY 2017 for WIOA Title I Youth, Adult and Dislocated Worker Activities programs; final allotments for Employment Service (ES) activities under the Wagner-Peyser Act for PY 2017 and the allotments of Workforce Information Grants to States for PY 2017.

WIOA allotments for States and the State final allotments for the Wagner-Peyser Act are based on formulas defined in their respective statutes. WIOA requires allotments for the Outlying Areas to be competitively based rather than based on a formula determined by the Secretary of Labor (Secretary) as occurred under the Workforce Investment Act (WIA). For PY 2017, the Consolidated Appropriations Act, 2017 waives the competition requirement, and the Secretary is using the discretionary formula rationale and methodology for allocating PY 2017 funds for the Outlying Areas (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the United States Virgin Islands) that was published in the

Federal Register at 65 FR 8236 (Feb. 17, 2000). WIOA specifically included the Republic of Palau as an Outlying Area, except during any period for which the Secretary of Labor and the Secretary of Education determine that a Compact of Free Association is in effect and contains provisions for training and education assistance prohibiting the assistance provided under WIOA; no such determinations prohibiting assistance have been made. The formula that the Department of Labor (Department) used for PY 2017 is the same formula used in PY 2016 and is described in the section on Youth Activities program allotments. Comments are invited on the formula used to allot funds to the Outlying Areas.

DATES: Comments on the formula used to allot funds to the Outlying Areas must be received by July 17, 2017.

ADDRESSES: Submit written comments to the Employment and Training Administration (ETA), Office of Financial Administration, 200 Constitution Avenue NW., Room N–4702, Washington, DC 20210, Attention: Ms. Anita Harvey, email: *harvey.anita@dol.gov.*

Commenters are advised that mail delivery in the Washington area may be delayed due to security concerns. Hand-delivered comments will be received at the above address. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the date specified above.

Please submit your comments by only one method. The Department will not review comments received by means other than those listed above or that are received after the comment period has closed.

Comments: The Department will retain all comments on this notice and will release them upon request via email to any member of the public. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide you with appropriate aids such as readers or print magnifiers. The Department will make copies of this notice available, upon request, in large print, Braille and electronic file. The Department also will consider providing the notice in other formats upon request. To schedule an appointment to review the comments and/or obtain the notice in an alternative format, contact Ms. Harvey using the information provided above. The Department will retain all comments received without making any changes to the comments, including any personal information provided. The Department therefore cautions commenters not to include their personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses in their comments; this information would be released with the comment if the comments are requested. It is the commenter's responsibility to safeguard his or her information.

FOR FURTHER INFORMATION CONTACT: WIOA Youth Activities allotments—Evan Rosenberg at (202) 693–3593 or LaSharn Youngblood at (202) 693–3606; WIOA Adult and Dislocated Worker Activities and ES final allotments—Robert Kight at (202) 693–3937; Workforce Information Grant allotments—Donald Haughton at (202) 693–2784. Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The Department is announcing WIOA allotments for PY 2017 for Youth Activities, Adults and Dislocated Worker Activities, Wagner-Peyser Act PY 2017 final allotments, and PY 2017 Workforce Information Grant allotments. This notice provides information on the amount of funds available during PY 2017 to States with an approved WIOA Title I and Wagner-Peyser Act Strategic Plan for PY 2017, and information regarding allotments to the Outlying Areas.

On May 5, 2017, the Consolidated Appropriations Act, 2017, Public Law 115–31 was signed into law (''the Act''). The Act, Division H, Title I, Section 107 of the Act allows the Secretary of Labor (Secretary) to set aside up to 0.75 percent of most operating funds for evaluations. The evaluation provision is consistent with the Federal government's priority on evidence-based policy and programming providing opportunities to expand evaluations and demonstrations in the Department to build solid evidence about what works best. In the past, funds for ETA evaluations and demonstrations were separately appropriated and managed by ETA. That separate authority has been replaced by the set aside provision. Funds are transferred to the Department's Chief Evaluation Office to implement formal evaluations and demonstrations in collaboration with ETA. For 2017, the Secretary set aside 0.25 percent of the Training and Employment Services (TES) and State Unemployment Insurance and Employment Services Operations (SUIESO) appropriations. ETA spread the amount to be set aside for each appropriation among the programs funded by that appropriation with more than $100 million in funding. This includes WIOA Adult, Youth and Dislocated Worker and Wagner-Peyser Employment Service program budgets.

The Consolidated Appropriations Act, 2017, Division H, Title I, sec. 106(b), allows the Secretary to set aside up to 0.5 percent of each discretionary appropriation for activities related to program integrity. For 2017, the Department set aside the full 0.5 percent of most discretionary appropriations which reduced WIOA Adult, Youth, Dislocated Worker, Wagner-Peyser Employment Service and Workforce Information Grant program budgets.

We also have attached tables listing the PY 2017 allotments for programs under WIOA Title I Youth Activities (Table A), Adult and Dislocated Workers Employment and Training Activities (Tables B and C, respectively), and the PY 2017 Wagner-Peyser Act final allotments (Table D). We also have attached the PY 2017 Workforce Information Grant table (Table E).

Youth Activities Allotments. The appropriated level for PY 2017 for WIOA Youth Activities totals $873,416,000. After reducing the appropriation by $2,488,000 for evaluations and $4,367,080 for program integrity, $866,560,920, is available for Youth Activities. Table A includes a breakdown of the Youth Activities program allotments for PY 2017 and provides a comparison of these allotments to PY 2016 Youth Activities allotments for all States, and Outlying Areas. For the Native American Youth program, the total amount available is 1.5 percent of the total amount for Youth Activities (after the evaluations and program integrity set asides), in accordance with WIOA section 127. The total funding available for the Outlying Areas was reserved at 0.25 percent of the amount appropriated for Youth Activities (after the evaluations and program integrity set asides) after the amount reserved for Native American Youth (in accordance with WIOA section 127(b)(1)(B)(i)). On December 17, 2003, Public Law 108–188, the Compact of Free Association Amendments Act of 2003 (''the Compact''), was signed into law. The Compact specified that the Republic of Palau remained eligible for WIA Title I funding. See 48 U.S.C. 1921d(f)(1)(B)(ix). WIOA sec. 512(g)(1) updated the Compact to refer to WIOA funding. The Consolidated

Appropriations Act, 2017 (Division H, Title III, Section 305 of Pub. L. 115–31) authorized WIOA Title I funding to Palau through FY 2017.

Under WIA, the Secretary had discretion for determining the methodology for distributing funds to all Outlying Areas. Under WIOA the Secretary must disseminate the funds through a competitive process. For PY 2017, the Consolidated Appropriations Act, 2017 waives the competition requirement contained in WIOA secs. 127(b)(1)(B)(ii), 132(b)(1)(A)(ii), and 132(b)(2)(A)(ii) regarding funding to Outlying Areas (*e.g.,* American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the United States Virgin Islands). For PY 2017, the Department used the same methodology used since PY 2000 (*i.e.,* we distribute funds among the Outlying Areas by formula based on relative share of the number of unemployed, a minimum of 90 percent of the prior year allotment percentage, a $75,000 minimum, and a 130 percent stop-gain of the prior year share). For the relative share calculation in PY 2017, the Department continued to use the data obtained from the 2010 Census for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands. For the Republic of Palau, the Department used data from Palau's 2015 Census.

After the Department calculated the amount for the Outlying Areas and the Native American program, it was determined that the amount available for PY 2017 allotments to the States is $851,428,600. This total amount was below the required $1 billion threshold specified in WIOA sec. 127(b)(1)(C)(iv)(IV); therefore, the Department did not apply the WIOA additional minimum provisions. Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent State minimum floor apply. This is the same methodology to set a floor on the annual variation in allotments as has been applied almost continuously for more than two decades. *See* sec. 262(b)(2) of the Job Training Partnership Act (JTPA) (Pub. L. 97–300), (as amended by sec. 207 of the Job Training Reform Amendments of 1992, Pub. L. 102–367); sec. 127(b)(1)(C)(iv)(IV) of the Workforce Investment Act of 1998 (Pub. L. 105–220). WIOA also provides that no State may receive an allotment that is more than 130 percent of the allotment percentage for the State for the previous year. The three data factors required by WIOA sec. 127(b)(1)(C)(ii) for the PY 2017 Youth Activities State formula allotments are, summarized slightly, as follows:

(1) The average number of unemployed individuals for Areas of Substantial Unemployment (ASUs) for the 12-month period, July 2015–June 2016;

(2) Number of excess unemployed individuals or the ASU excess (depending on which is higher) averages for the same 12-month period used for ASU unemployed data; and

(3) Number of disadvantaged youth (age 16 to 21, excluding college students in the workforce and military) from special tabulations of data from the American Community Survey (ACS), which the Department obtained from the Census Bureau and used since PY 2013. The Census Bureau collected the data used in the special tabulations for disadvantaged youth between January 1, 2006–December 31, 2010.

For purposes of identifying ASUs for the Youth Activities allotment) formula, the Department continued to use the data made available by BLS (as described in the Local Area Unemployment Statistics (LAUS) Technical Memorandum No. S–16–15). For purposes of determining the number of disadvantaged youth, the Department continued to use the special tabulations of ACS data available at *http://www.doleta.gov/budget/disadvantagedYouthAdults.cfm.*

See TEGL No. 21–12 for further information.

Adult Employment and Training Activities Allotments. The total appropriated funds for Adult Activities in PY 2017 is $815,556,000. After reducing the appropriated amount by $2,323,000 for evaluations and $4,077,780 for program integrity, $809,155,220 remains for Adult Activities, of which $807,132,332 is for States and $2,022,888 is for Outlying Areas. Table B shows the PY 2017 Adult Employment and Training Activities allotments and a State by State comparison of the PY 2017 allotments to PY 2016 allotments.

In accordance with WIOA, the Department reserved the total available for the Outlying Areas at 0.25 percent of the full amount appropriated for Adult Activities (after the evaluations and program integrity set asides). As discussed in the Youth Activities section above, in PY 2017 the Department will distribute the Adult Activities funding for the Outlying Areas, using the same principles, formula and data as used for Outlying Areas for Youth Activities. After determining the amount for the Outlying Areas, the Department used the statutory formula to distribute the remaining amount available for allotments to the States. The Department did not apply the WIOA minimum provisions for the PY 2017 allotments because the total amount available for the States was below the $960 million threshold required for Adult Activities in WIOA sec. 132(b)(1)(B)(iv)(IV). Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent State minimum floor apply. This is the same methodology to set a floor on the annual variation in allotments as has been applied almost continuously for more than two decades. *See* sec. 262(b)(2) of the Job Training Partnership Act (JTPA) (Pub. L. 97–300), (as amended by sec. 207 of the Job Training Reform Amendments of 1992, Pub. L. 102–367); sec. 127(b)(1)(C)(iv)(IV) of the Workforce Investment Act of 1998 (Pub. L. 105–220). WIOA also provides that no State may receive an allotment that is more than 130 percent of the allotment percentage for the State for the previous year. The three formula data factors for the Adult Activities program are the same as those used for the Youth Activities formula, except the Department used data for the number of disadvantaged adults (age 22 to 72, excluding college students in the workforce and military).

Dislocated Worker Employment and Training Activities Allotments. The amount appropriated for Dislocated Worker activities in PY 2017 totals $1,241,719,000. The total appropriation includes formula funds for the States, while the National Reserve is used for National Dislocated Worker Grants, technical assistance and training, demonstration projects, and the Outlying Areas' Dislocated Worker allotments. After reducing the appropriated amount by $3,536,000 for evaluations and $6,208,595 for program integrity, a total of $1,231,974,405 remains available for Dislocated Worker activities. The amount available for Outlying Areas is $3,079,936, leaving $216,046,769 for the National Reserve and a total of $1,012,847,700 available for States. Like the Adult program, Table C shows the PY 2017 Dislocated Worker activities allotments and a State by State comparison of the PY 2017 allotments to PY 2016 allotments.

Like the Adult Activities program, the Department reserved the total available for the Outlying Areas at 0.25 percent of the full amount appropriated for Dislocated Worker Activities (after the evaluations and program integrity set asides). Similar to Youth and Adult funds, instead of competition, in PY

2017 the Department will use the same *pro rata* share as the areas received for the PY 2017 WIOA Adult Activities program to distribute the Outlying Areas' Dislocated Worker funds, the same methodology used in PY 2016.

The three data factors required in WIOA sec. 132(b)(2)(B)(ii) for the PY 2017 Dislocated Worker State formula allotments are, summarized slightly, as follows:

(1) Number of unemployed, averages for the 12-month period, October 2015–September 2016;

(2) Number of excess unemployed, averages for the 12-month period, October 2015–September 2016; and

(3) Number of long-term unemployed, averages for the 12-month period, October 2015–September 2016.

In PY 2017, under WIOA the Dislocated Worker formula uses minimum and maximum provisions. No State may receive an allotment that is less than 90 percent of the State's prior year allotment percentage or more than 130 percent of the State's prior year allotment percentage.

Wagner-Peyser Act ES Final Allotments. The appropriated level for PY 2017 for ES grants totals $671,413,000. After reducing the appropriated amount by $1,826,000 for evaluations and $3,357,065 for program integrity, a total of $666,229,935 remains available for ES programs. After determining the funding for Outlying Areas, the Department calculated allotments to States using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). The Department based PY 2017 formula allotments on each State's share of calendar year 2016 monthly averages of the civilian labor force (CLF) and unemployment. Section 6(b)(4) of the Wagner-Peyser Act requires the Secretary to set aside up to three percent of the total funds available for ES to ensure that each State will have sufficient resources to maintain statewide ES activities. In accordance with this provision, the Department included the three percent set aside funds in this total allotment. The Department distributed the set-aside funds in two steps to States that have experienced a reduction in their relative share of the total resources available this year from their relative share of the total resources available the previous year. In Step 1, States that have a CLF below one million and are also below the median CLF density were maintained at 100 percent of their relative share of prior year resources. ETA calculated the median CLF density based on CLF data provided by the BLS for calendar year 2016. All remaining set-aside funds were distributed on a *pro-rata* basis in Step 2 to all other States experiencing reductions in relative share from the prior year but not meeting the size and density criteria for Step 1. The distribution of ES funds (Table D) includes $664,605,898 for States, as well as $1,624,037 for Outlying Areas.

Section 7(a) of the Wagner-Peyser Act (49 U.S.C. 49f(a)) authorizes States to use 90 percent of funds allotted to a State for labor exchange services and other career services such as job search and placement services to job seekers; appropriate recruitment services for employers; program evaluations; developing and providing labor market and occupational information; developing management information systems; and administering the work test for unemployment insurance claimants. Section 7(b) of the Wagner-Peyser Act states that 10 percent of the total sums allotted to each State must be reserved for use by the Governor to provide performance incentives for public ES offices and programs, provide services for groups with special needs, and to provide for the extra costs of exemplary models for delivering services of the type described in section 7(a).

Workforce Information Grants Allotments. Total PY 2017 funding for Workforce Information Grants allotments to States is $32,000,000. After reducing the total by $160,000 for program integrity, $31,840,000 is available for Workforce Information Grants. The allotment figures for each State are listed in Table E. Funds are distributed by administrative formula, with a reserve of $176,416 for Guam and the United States Virgin Islands. Guam and the United States Virgin Islands allotment amounts are partially based on CLF data. The Department distributes the remaining funds to the States with 40 percent distributed equally to all States and 60 percent distributed based on each State's share of CLF for the 12 months ending September 2016.

TABLE A—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA YOUTH ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2017 ALLOTMENTS VS PY 2016 ALLOTMENTS

State	PY 2016	PY 2017	Difference	Difference (percent)
Total Appropriated	$873,416,000	$873,416,000	$0	0.00
Total (WIOA Youth Activities)	870,931,000	866,560,920	(4,370,080)	−0.50
Alabama	13,242,811	15,935,826	2,693,015	20.34
Alaska	2,296,191	2,749,556	453,365	19.74
Arizona	20,040,831	21,927,448	1,886,617	9.41
Arkansas	7,839,730	7,020,353	(819,377)	−10.45
California	128,788,366	122,708,017	(6,080,349)	−4.72
Colorado	11,182,905	10,014,113	(1,168,792)	−10.45
Connecticut	10,313,964	10,849,939	535,975	5.20
Delaware	2,139,306	2,128,572	(10,734)	−0.50
District of Columbia	3,086,388	3,048,727	(37,661)	−1.22
Florida	49,787,759	47,191,033	(2,596,726)	−5.22
Georgia	30,707,383	27,497,972	(3,209,411)	−10.45
Hawaii	2,139,306	2,128,572	(10,734)	−0.50
Idaho	2,944,428	2,636,688	(307,740)	−10.45
Illinois	40,003,397	45,262,696	5,259,299	13.15
Indiana	17,064,726	15,281,190	(1,783,536)	−10.45
Iowa	5,118,005	5,042,166	(75,839)	−1.48
Kansas	5,166,437	4,626,462	(539,975)	−10.45
Kentucky	12,961,737	13,006,059	44,322	0.34
Louisiana	12,548,488	15,937,361	3,388,873	27.01
Maine	3,208,693	2,873,333	(335,360)	−10.45
Maryland	14,375,433	13,351,957	(1,023,476)	−7.12

TABLE A—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA YOUTH ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2017 ALLOTMENTS VS PY 2016 ALLOTMENTS—Continued

State	PY 2016	PY 2017	Difference	Difference (percent)
Massachusetts	15,595,256	13,965,303	(1,629,953)	−10.45
Michigan	29,709,018	26,603,952	(3,105,066)	−10.45
Minnesota	8,577,825	8,630,212	52,387	0.61
Mississippi	10,193,683	10,648,637	454,954	4.46
Missouri	16,472,508	14,750,868	(1,721,640)	−10.45
Montana	2,139,306	2,128,572	(10,734)	−0.50
Nebraska	2,291,470	2,432,570	141,100	6.16
Nevada	9,531,729	9,913,269	381,540	4.00
New Hampshire	2,139,306	2,128,572	(10,734)	−0.50
New Jersey	24,898,651	22,296,345	(2,602,306)	−10.45
New Mexico	6,167,206	7,484,241	1,317,035	21.36
New York	54,003,637	49,406,010	(4,597,627)	−8.51
North Carolina	25,235,370	28,746,951	3,511,581	13.92
North Dakota	2,139,306	2,128,572	(10,734)	−0.50
Ohio	28,162,375	30,130,209	1,967,834	6.99
Oklahoma	6,558,618	7,802,022	1,243,404	18.96
Oregon	11,441,241	10,245,449	(1,195,792)	−10.45
Pennsylvania	29,652,886	32,264,694	2,611,808	8.81
Puerto Rico	23,096,083	25,176,038	2,079,955	9.01
Rhode Island	3,880,689	3,582,507	(298,182)	−7.68
South Carolina	14,636,640	13,932,904	(703,736)	−4.81
South Dakota	2,139,306	2,128,572	(10,734)	−0.50
Tennessee	18,911,472	16,934,922	(1,976,550)	−10.45
Texas	51,888,988	58,289,678	6,400,690	12.34
Utah	3,711,780	3,323,840	(387,940)	−10.45
Vermont	2,139,306	2,128,572	(10,734)	−0.50
Virginia	15,728,252	14,084,399	(1,643,853)	−10.45
Washington	18,966,351	18,561,132	(405,219)	−2.14
West Virginia	5,350,384	6,247,535	897,151	16.77
Wisconsin	13,268,135	11,985,441	(1,282,694)	−9.67
Wyoming	2,139,306	2,128,572	(10,734)	−0.50
State Total	855,722,367	851,428,600	(4,293,767)	−0.50
American Samoa	228,951	227,760	(1,191)	−0.52
Guam	777,128	773,087	(4,041)	−0.52
Northern Marianas	424,593	422,385	(2,208)	−0.52
Palau	75,000	75,000	0	0.00
Virgin Islands	638,996	635,674	(3,322)	−0.52
Outlying Areas Total	2,144,668	2,133,906	(10,762)	−0.50
Native Americans	13,063,965	12,998,414	(65,551)	−0.50
Evaluations set aside	2,485,000	2,488,000	3,000	0.12
Program Integrity set aside	0	4,367,080	4,367,080	N/A

TABLE B—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA ADULT ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2017 ALLOTMENTS VS PY 2016 ALLOTMENTS

State	PY 2016	PY 2017	Difference	Difference (percent)
Total Appropriated	$815,556,000	$815,556,000	$0	0.00
Total (WIOA Adult Activities)	813,235,000	809,155,220	(4,079,780)	−0.50
Alabama	12,855,265	15,399,354	2,544,089	19.79
Alaska	2,141,082	2,571,516	430,434	20.10
Arizona	18,879,837	20,673,071	1,793,234	9.50
Arkansas	7,472,699	6,691,689	(781,010)	−10.45
California	123,210,917	117,464,601	(5,746,316)	−4.66
Colorado	10,370,217	9,286,373	(1,083,844)	−10.45
Connecticut	9,481,516	9,998,629	517,113	5.45
Delaware	2,028,005	2,017,831	(10,174)	−0.50
District of Columbia	2,829,641	2,797,188	(32,453)	−1.15
Florida	49,511,527	47,011,004	(2,500,523)	−5.05
Georgia	29,416,706	26,342,217	(3,074,489)	−10.45
Hawaii	2,028,005	2,017,831	(10,174)	−0.50
Idaho	2,734,779	2,448,953	(285,826)	−10.45
Illinois	37,518,214	42,455,721	4,937,507	13.16
Indiana	15,474,763	13,857,417	(1,617,346)	−10.45

TABLE B—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA ADULT ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2017 ALLOTMENTS VS PY 2016 ALLOTMENTS—Continued

State	PY 2016	PY 2017	Difference	Difference (percent)
Iowa	3,662,040	3,620,871	(41,169)	−1.12
Kansas	4,279,457	3,832,189	(447,268)	−10.45
Kentucky	13,185,700	13,297,308	111,608	0.85
Louisiana	12,032,822	15,196,124	3,163,302	26.29
Maine	2,914,099	2,609,532	(304,567)	−10.45
Maryland	13,348,546	12,390,856	(957,690)	−7.17
Massachusetts	13,911,495	12,457,534	(1,453,961)	−10.45
Michigan	27,194,798	24,352,532	(2,842,266)	−10.45
Minnesota	7,336,969	7,225,904	(111,065)	−1.51
Mississippi	9,714,582	10,146,478	431,896	4.45
Missouri	15,350,715	13,746,334	(1,604,381)	−10.45
Montana	2,028,005	2,017,831	(10,174)	−0.50
Nebraska	2,028,005	2,017,831	(10,174)	−0.50
Nevada	9,285,903	9,643,279	357,376	3.85
New Hampshire	2,028,005	2,017,831	(10,174)	−0.50
New Jersey	24,056,170	21,541,938	(2,514,232)	−10.45
New Mexico	5,913,046	7,159,148	1,246,102	21.07
New York	52,214,166	47,853,408	(4,360,758)	−8.35
North Carolina	24,108,820	27,433,397	3,324,577	13.79
North Dakota	2,028,005	2,017,831	(10,174)	−0.50
Ohio	26,068,489	27,953,259	1,884,770	7.23
Oklahoma	6,320,826	7,504,490	1,183,664	18.73
Oregon	10,949,876	9,805,449	(1,144,427)	−10.45
Pennsylvania	26,866,202	29,375,775	2,509,573	9.34
Puerto Rico	24,742,775	26,646,862	1,904,087	7.70
Rhode Island	3,373,076	3,065,937	(307,139)	−9.11
South Carolina	14,080,837	13,413,830	(667,007)	−4.74
South Dakota	2,028,005	2,017,831	(10,174)	−0.50
Tennessee	18,374,267	16,453,879	(1,920,388)	−10.45
Texas	49,440,010	55,507,822	6,067,812	12.27
Utah	3,116,753	2,791,005	(325,748)	−10.45
Vermont	2,028,005	2,017,831	(10,174)	−0.50
Virginia	14,623,934	13,095,513	(1,528,421)	−10.45
Washington	17,705,363	17,333,734	(371,629)	−2.10
West Virginia	5,356,273	6,199,542	843,269	15.74
Wisconsin	11,524,695	10,320,191	(1,204,504)	−10.45
Wyoming	2,028,005	2,017,831	(10,174)	−0.50
State Total	811,201,912	807,132,332	(4,069,580)	−0.50
American Samoa	216,608	215,479	(1,129)	−0.52
Guam	735,231	731,402	(3,829)	−0.52
Northern Marianas	401,702	399,609	(2,093)	−0.52
Palau	75,000	75,000	0	0.00
Virgin Islands	604,547	601,398	(3,149)	−0.52
Outlying Areas Total	2,033,088	2,022,888	(10,200)	−0.50
Evaluations set aside	2,321,000	2,323,000	2,000	0.09
Program Integrity set aside	0	4,077,780	4,077,780	N/A

TABLE C—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2017 ALLOTMENTS VS PY 2016 ALLOTMENTS

State	PY 2016	PY 2017	Difference	Difference (percent)
Total Appropriated	$1,241,719,000	$1,241,719,000	$0	0.00
Total (WIOA Dislocated Worker Activities)	1,238,186,000	1,231,974,405	(6,211,595)	−0.50
Alabama	16,427,975	20,979,198	4,551,223	27.70
Alaska	2,854,009	3,691,597	837,588	29.35
Arizona	25,029,051	25,219,541	190,490	0.76
Arkansas	7,757,044	6,946,313	(810,731)	−10.45
California	169,644,376	151,913,910	(17,730,466)	−10.45
Colorado	12,323,381	11,035,397	(1,287,984)	−10.45
Connecticut	14,353,697	15,909,908	1,556,211	10.84
Delaware	2,349,277	2,103,741	(245,536)	−10.45
District of Columbia	4,499,821	4,870,170	370,349	8.23
Florida	65,053,785	58,254,657	(6,799,128)	−10.45

TABLE C—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2017 ALLOTMENTS VS PY 2016 ALLOTMENTS—Continued

State	PY 2016	PY 2017	Difference	Difference (percent)
Georgia	40,521,426	36,286,309	(4,235,117)	−10.45
Hawaii	1,894,161	1,757,907	(136,254)	−7.19
Idaho	2,385,440	2,136,125	(249,315)	−10.45
Illinois	52,763,567	68,248,493	15,484,926	29.35
Indiana	17,062,801	15,279,474	(1,783,327)	−10.45
Iowa	4,004,176	4,495,013	490,837	12.26
Kansas	4,609,831	4,508,709	(101,122)	−2.19
Kentucky	14,673,688	13,849,199	(824,489)	−5.62
Louisiana	12,042,192	15,576,306	3,534,114	29.35
Maine	3,249,844	2,910,185	(339,659)	−10.45
Maryland	18,580,386	16,638,448	(1,941,938)	−10.45
Massachusetts	19,237,457	17,226,845	(2,010,612)	−10.45
Michigan	36,259,049	32,469,417	(3,789,632)	−10.45
Minnesota	7,537,884	7,681,855	143,971	1.91
Mississippi	11,826,808	13,860,858	2,034,050	17.20
Missouri	17,142,075	15,350,463	(1,791,612)	−10.45
Montana	1,537,406	1,693,774	156,368	10.17
Nebraska	1,824,043	2,359,359	535,316	29.35
Nevada	14,417,704	15,103,430	685,726	4.76
New Hampshire	2,130,457	1,907,791	(222,666)	−10.45
New Jersey	38,809,709	34,753,493	(4,056,216)	−10.45
New Mexico	7,937,300	10,266,720	2,329,420	29.35
New York	62,428,888	55,904,102	(6,524,786)	−10.45
North Carolina	31,022,721	32,747,320	1,724,599	5.56
North Dakota	728,444	881,051	152,607	20.95
Ohio	30,539,787	29,804,480	(735,307)	−2.41
Oklahoma	5,376,760	6,954,719	1,577,959	29.35
Oregon	14,140,167	12,662,300	(1,477,867)	−10.45
Pennsylvania	36,591,154	42,289,168	5,698,014	15.57
Puerto Rico	25,824,090	33,402,882	7,578,792	29.35
Rhode Island	5,005,633	4,482,467	(523,166)	−10.45
South Carolina	16,310,315	16,832,563	522,248	3.20
South Dakota	1,070,734	958,826	(111,908)	−10.45
Tennessee	23,146,617	20,727,437	(2,419,180)	−10.45
Texas	50,297,194	49,097,497	(1,199,697)	−2.39
Utah	3,143,067	3,927,378	784,311	24.95
Vermont	890,075	797,048	(93,027)	−10.45
Virginia	16,945,520	15,174,451	(1,771,069)	−10.45
Washington	22,462,284	29,054,462	6,592,178	29.35
West Virginia	6,291,269	8,137,616	1,846,347	29.35
Wisconsin	14,260,128	12,769,724	(1,490,404)	−10.45
Wyoming	740,333	957,604	217,271	29.35
State Total	1,017,955,000	1,012,847,700	(5,107,300)	−0.50
American Samoa	329,795	328,076	(1,719)	−0.52
Guam	1,119,421	1,113,592	(5,829)	−0.52
Northern Marianas	611,609	608,422	(3,187)	−0.52
Palau	114,191	114,191	0	0.00
Virgin Islands	920,449	915,655	(4,794)	−0.52
Outlying Areas Total	3,095,465	3,079,936	(15,529)	−0.50
National Reserve*	217,135,535	216,046,769	(1,088,766)	−0.50
Evaluations set aside	3,533,000	3,536,000	3,000	0.08
Program Integrity set aside	0	6,208,595	6,208,595	N/A

*The PY 2016 Dislocated Worker National Reserve amount reflects the initial appropriation; however, the Consolidated Appropriations Act, 2017 contained a $75M rescission to the Dislocated Worker National Reserve, decreasing funding in that category to $142,135,535.

TABLE D—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION EMPLOYMENT SERVICE (WAGNER-PEYSER) PY 2017 VS PY 2016 FINAL ALLOTMENTS

State	Final PY 2016	Final PY 2017	Difference	Difference (percent)
Total Appropriated	$680,000,000	$671,413,000	($8,587,000)	−1.26
Total (WIOA ES Activities)	678,155,000	666,229,935	(11,925,065)	−1.76
Alabama	8,970,663	9,027,135	56,472	0.63
Alaska	7,371,868	7,242,237	(129,631)	−1.76

TABLE D—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION EMPLOYMENT SERVICE (WAGNER-PEYSER) PY 2017 VS PY 2016 FINAL ALLOTMENTS—Continued

State	Final PY 2016	Final PY 2017	Difference	Difference (percent)
Arizona	13,211,577	12,978,929	(232,648)	−1.76
Arkansas	5,397,894	5,217,919	(179,975)	−3.33
California	80,968,393	78,969,900	(1,998,493)	−2.47
Colorado	10,789,931	10,468,606	(321,325)	−2.98
Connecticut	7,765,324	7,612,739	(152,585)	−1.96
Delaware	1,894,205	1,860,897	(33,308)	−1.76
District of Columbia	2,096,429	2,015,455	(80,974)	−3.86
Florida	39,144,904	38,312,400	(832,504)	−2.13
Georgia	20,216,693	19,771,269	(445,424)	−2.20
Hawaii	2,428,629	2,380,036	(48,593)	−2.00
Idaho	6,142,079	6,034,073	(108,006)	−1.76
Illinois	28,115,306	27,568,320	(546,986)	−1.95
Indiana	13,000,193	12,751,883	(248,310)	−1.91
Iowa	6,166,392	6,179,048	12,656	0.21
Kansas	5,618,970	5,509,961	(109,009)	−1.94
Kentucky	8,515,817	8,242,605	(273,212)	−3.21
Louisiana	9,250,226	9,072,599	(177,627)	−1.92
Maine	3,652,636	3,588,406	(64,230)	−1.76
Maryland	12,506,024	12,194,677	(311,347)	−2.49
Massachusetts	13,897,531	13,481,619	(415,912)	−2.99
Michigan	21,131,809	20,282,456	(849,353)	−4.02
Minnesota	11,125,457	10,916,782	(208,675)	−1.88
Mississippi	5,700,269	5,540,675	(159,594)	−2.80
Missouri	12,359,052	12,085,367	(273,685)	−2.21
Montana	5,019,337	4,931,074	(88,263)	−1.76
Nebraska	5,520,741	5,270,650	(250,091)	−4.53
Nevada	6,211,983	6,059,257	(152,726)	−2.46
New Hampshire	2,694,892	2,611,819	(83,073)	−3.08
New Jersey	19,315,682	18,686,255	(629,427)	−3.26
New Mexico	5,632,581	5,533,534	(99,047)	−1.76
New York	39,157,376	38,225,469	(931,907)	−2.38
North Carolina	19,761,644	19,331,991	(429,653)	−2.17
North Dakota	5,111,188	5,021,310	(89,878)	−1.76
Ohio	23,704,298	23,078,542	(625,756)	−2.64
Oklahoma	6,861,466	7,090,070	228,604	3.33
Oregon	8,237,229	8,065,602	(171,627)	−2.08
Pennsylvania	26,031,932	26,109,470	77,538	0.30
Puerto Rico	6,909,223	6,712,967	(196,256)	−2.84
Rhode Island	2,459,092	2,370,967	(88,125)	−3.58
South Carolina	9,472,249	9,245,152	(227,097)	−2.40
South Dakota	4,723,913	4,640,845	(83,068)	−1.76
Tennessee	12,834,215	12,465,126	(369,089)	−2.88
Texas	49,277,528	50,422,012	1,144,484	2.32
Utah	6,299,178	6,013,824	(285,354)	−4.53
Vermont	2,212,949	2,174,035	(38,914)	−1.76
Virginia	16,206,026	15,801,143	(404,883)	−2.50
Washington	14,323,487	14,769,360	445,873	3.11
West Virginia	5,406,984	5,311,905	(95,079)	−1.76
Wisconsin	12,013,389	11,756,933	(256,456)	−2.13
Wyoming	3,665,041	3,600,593	(64,448)	−1.76
State Total	676,501,894	664,605,898	(11,895,996)	−1.76
Guam	317,324	311,744	(5,580)	−1.76
Virgin Islands	1,335,782	1,312,293	(23,489)	−1.76
Outlying Areas Total	1,653,106	1,624,037	(29,069)	−1.76
Evaluations set aside	1,845,000	1,826,000	(19,000)	−1.03
Program Integrity set aside	0	3,357,065	3,357,065	N/A

TABLE E—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WORKFORCE INFORMATION GRANTS TO STATES PY 2017 VS PY 2016 ALLOTMENTS

State	PY 2016	PY 2017	Difference	Difference (percent)
Total with Program Integrity	$32,000,000	$32,000,000	$0	0.00
Total	32,000,000	31,840,000	(160,000)	−0.50

TABLE E—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WORKFORCE INFORMATION GRANTS TO STATES PY 2017 VS PY 2016 ALLOTMENTS—Continued

State	PY 2016	PY 2017	Difference	Difference (percent)
Alabama	503,955	500,653	(3,302)	−0.66
Alaska	288,924	286,485	(2,439)	−0.84
Arizona	624,575	625,139	564	0.09
Arkansas	405,098	404,113	(985)	−0.24
California	2,535,716	2,515,226	(20,490)	−0.81
Colorado	585,592	585,031	(561)	−0.10
Connecticut	475,078	468,956	(6,122)	−1.29
Delaware	300,301	300,334	33	0.01
District of Columbia	291,253	290,313	(940)	−0.32
Florida	1,405,557	1,402,184	(3,373)	−0.24
Georgia	818,650	819,642	992	0.12
Hawaii	326,170	325,006	(1,164)	−0.36
Idaho	340,258	339,637	(621)	−0.18
Illinois	1,030,239	1,026,731	(3,508)	−0.34
Indiana	638,032	640,403	2,371	0.37
Iowa	451,225	447,097	(4,128)	−0.91
Kansas	425,110	421,676	(3,434)	−0.81
Kentucky	482,822	477,694	(5,128)	−1.06
Louisiana	509,684	498,566	(11,118)	−2.18
Maine	328,137	324,364	(3,773)	−1.15
Maryland	622,922	619,671	(3,251)	−0.52
Massachusetts	679,830	670,024	(9,806)	−1.44
Michigan	817,841	816,135	(1,706)	−0.21
Minnesota	607,606	603,738	(3,868)	−0.64
Mississippi	395,692	396,216	524	0.13
Missouri	617,432	616,601	(831)	−0.13
Montana	307,795	305,779	(2,016)	−0.65
Nebraska	367,292	364,584	(2,708)	−0.74
Nevada	415,509	413,767	(1,742)	−0.42
New Hampshire	334,684	332,445	(2,239)	−0.67
New Jersey	793,083	786,208	(6,875)	−0.87
New Mexico	356,477	353,041	(3,436)	−0.96
New York	1,405,521	1,394,819	(10,702)	−0.76
North Carolina	814,035	816,832	2,797	0.34
North Dakota	295,165	293,299	(1,866)	−0.63
Ohio	936,822	927,722	(9,100)	−0.97
Oklahoma	465,408	462,774	(2,634)	−0.57
Oregon	480,039	485,244	5,205	1.08
Pennsylvania	1,016,843	1,015,467	(1,376)	−0.14
Puerto Rico	382,050	378,636	(3,414)	−0.89
Rhode Island	311,738	309,389	(2,349)	−0.75
South Carolina	515,528	515,922	394	0.08
South Dakota	299,424	297,615	(1,809)	−0.60
Tennessee	612,772	614,415	1,643	0.27
Texas	1,828,910	1,819,094	(9,816)	−0.54
Utah	420,937	420,394	(543)	−0.13
Vermont	286,842	284,535	(2,307)	−0.80
Virginia	757,553	745,883	(11,670)	−1.54
Washington	671,496	672,748	1,252	0.19
West Virginia	339,090	336,852	(2,238)	−0.66
Wisconsin	618,500	615,095	(3,405)	−0.55
Wyoming	281,988	279,390	(2,598)	−0.92
State Total	31,823,200	31,663,584	(159,616)	−0.50
Guam	93,090	92,875	(215)	−0.23
Virgin Islands	83,710	83,541	(169)	−0.20
Outlying Areas Total	176,800	176,416	(384)	−0.22
Program Integrity set aside	0	160,000	160,000	N/A

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 2017–12336 Filed 6–14–17; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2017–047]

Chief FOIA Officers' Council Meeting

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

ACTION: Notice of Chief FOIA Officers' Council meeting.

SUMMARY: In accordance with the Freedom of Information Act (5 U.S.C. 552 (k)), OGIS and the U.S. Department of Justice's Office of Information Policy (OIP), announce the third meeting of the Chief FOIA Officers' Council.

DATES: The meeting will be Thursday, July 27, 2017, from 10:00 a.m. to 12 p.m. EDT. Please register for the meeting no later than July 25, 2017, at 5:00 p.m. EDT (registration information is below).

Location: National Archives and Records Administration (NARA), 700 Pennsylvania Avenue NW., William G. McGowan Theater, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Amy Bennett, by mail at National Archives and Records Administration; Office of Government Information Services; 8601 Adelphi Road—OGIS; College Park, MD 20740–6001, by telephone at (202) 741–5782, or by email at *amy.bennett@nara.gov,* with the subject line ''Chief FOIA Officers' Council.''

SUPPLEMENTARY INFORMATION: This meeting is open to the public in accordance with the Freedom of Information Act (5 U.S.C. 552(k)). The Chief FOIA Officers' Council is co-chaired by the Directors of OIP and OGIS. One of the purposes of the Chief FOIA Officers' Council is developing recommendations to increase agency compliance and efficiency and sharing best practices and innovative approaches. During this meeting, participants will discuss customer service and improving coordination between agency FOIA Public Liaisons and OGIS in light of the FOIA Improvement Act of 2016 amendments. Additional details about the meeting are on OGIS's Web site at *https://archives.gov/ogis/about-ogis/Chief-FOIA-Officers-Council* and OIP's Web site at *https://www.justice.gov/oip/chief-foia-officers-council.*

Procedures: Due to security requirements, you must register in advance if you wish to attend the meeting. You will also go through security screening when you enter the building. Registration for the meeting will go live via Eventbrite on June 26, 2017, at 10:00 a.m. EDT. To register for the meeting, please do so at the following Eventbrite link: *https://www.eventbrite.com/e/chief-foia-officers-council-meeting-tickets-34634635126.*

We will also live-stream this program on the U.S. National Archives' YouTube channel, at *https://www.youtube.com/user/usnationalarchives/.* The webcast will include a captioning option. To request additional accommodations (*e.g.,* a transcript), email *ogis@nara.gov* or call 202–741–5770.

Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Amy Bennett at the phone number, mailing address, or email address listed above.

Alina M. Semo,

Director, Office of Government Information Services.

[FR Doc. 2017–12380 Filed 6–14–17; 8:45 am]

BILLING CODE 7515–01–P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: The Roles of Libraries and Museums as Enablers of Community Vitality and Co-Creators of Positive Community Change Program Evaluation

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning a proposed survey to collect information to build the capacity of a grantee cohort to successfully execute projects related to the ''Roles of Libraries and Museums as Enablers of Community Vitality and Co-Creators of Positive Community Change'' grant program and document processes related to community engagement, partnerships, and associated outcomes for the benefit of the museum and library fields.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 12, 2017.

IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

ADDRESSES: Send comments to: Sandra R. Webb, Senior Advisor, Grants and Initiatives, Office of the Director, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW., Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718, Fax: 202–653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

FOR FURTHER INFORMATION CONTACT: Sandra R. Webb, Senior Advisor, Grants and Initiatives, Office of the Director, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW.,

Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718, Fax: 202–653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202/653–4614. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the Nation's 123,000 libraries and 35,000 museums. The Institute's mission is to inspire libraries and museums to advance innovation, learning and civic engagement. The Institute works at the national level and in coordination with state and local organizations to sustain heritage, culture, and knowledge; enhance learning and innovation; and support professional development. IMLS is responsible for identifying national needs for and trends in museum, library, and information services; measuring and reporting on the impact and effectiveness of museum, library and information services throughout the United States, including programs conducted with funds made available by IMLS; identifying, and disseminating information on, the best practices of such programs; and developing plans to improve museum, library and information services of the United States and strengthen national, State, local, regional, and international communications and cooperative networks (20 U.S.C. Chapter 72, 20 U.S.C. 9108).

II. Current Actions

The purpose of this collection is to build the capacity of the ''The Roles of Libraries and Museums as Enablers of Community Vitality and Co-Creators of Positive Community Change Program'' grantee cohort to successfully execute their projects while at the same time documenting community engagement and partnership processes, and identifying the outcomes of the projects' interventions. The Roles of Libraries and Museums as Enablers of Community Vitality and Co-Creators of Positive Community Change Program Evaluation is designed to identify the factors, resources, partnerships, and practices that together increase the capacity of libraries, archives, and museums to successfully serve the needs of their local communities. An evaluation of the 9–20 museum and library projects can produce frameworks and methodologies that the library and museum fields can use to more deeply collaborate with their communities.

The evaluation is intended to support the work of Community Catalyst grantee project teams and those in the museum and library fields who are interested in local community-based interventions and partnerships. Methods will include qualitative and quantitative data collection via a developmental evaluation approach. Data will be collected through activities such as online and/or paper and pencil surveys, phone interviews, in-person interviews, focus groups, video or photographs, and documentation of artifacts used by grantees in their work.

Agency: Institute of Museum and Library Services.

Title: The Roles of Libraries and Museums as Enablers of Community Vitality and Co-Creators of Positive Community Change Program Evaluation.

OMB Number: To Be Determined.

Frequency: One-time collection anticipated.

Affected Public: Libraries, agencies, institutions of higher education, museums, and other entities that advance the museum and library fields and that meet the eligibility criteria.

Number of Respondents: To be determined.

Estimated Average Burden per Response: To be determined.

Estimated Total Annual Burden: To be determined.

Total Annualized capital/startup costs: N/A.

Total Annual costs: To be determined.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: June 12, 2017.

Kim Miller,

Grants Management Specialist, Office of Chief Information Officer.

[FR Doc. 2017–12402 Filed 6–14–17; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0269]

Information Collection: Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater Than Class C Waste

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, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.''

DATES: Submit comments by August 14, 2017. 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 Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0269. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@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: T–2 F43, 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–2016–0269 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 Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0269.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/*

adams.html. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML17060A263 and ML17145A449, respectively.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *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–2016–0269 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 that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions 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:* Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.

2. *OMB approval number:* 3150–0132.

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; submittal of reports varies from less than one per year under some rule sections to up to an average of about 80 per year under other rule sections. Applications for new licenses, certificates of compliance (CoCs), and amendments may be submitted at anytime; applications for renewal of licenses are required every 40 years for an independent spent fuel storage installation (ISFSI) or CoC effective May 21, 2011, and every 40 years for a monitored retrievable storage (MRS) facility.

6. *Who will be required or asked to respond:* Certificate holders and applicants for a CoC for spent fuel storage casks; licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI; and the U.S. Department of Energy (DOE) for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

7. *The estimated number of annual responses:* 839.3 (607.3 reporting responses + 150 third-party disclosure responses + 82 recordkeepers).

8. *The estimated number of annual respondents:* 82.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 79,040 hours (33,909 hours reporting + 42,319 hours recordkeeping + 2,812 hours third-party disclosure).

10. *Abstract:* Part 72 of title 10 of the *Code of Federal Regulations,* establishes mandatory requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, as well as requirements for the issuance of licenses to DOE to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials in an MRS. The information in the applications, reports, and records is used by the NRC to make licensing and other regulatory determinations.

II. 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 12th day of May 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–12383 Filed 6–14–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 43 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–144, CP2017–203.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–12375 Filed 6–14–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: Effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, (202) 268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 328 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–146, CP2017–205.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–12373 Filed 6–14–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: Effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, (202) 268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 44 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–145, CP2017–204.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–12374 Filed 6–14–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: Effective June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Maria W. Votsch, (202) 268–6525.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 49 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–147, CP2017–206.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–12372 Filed 6–14–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Electronic Data Collection System, SEC File No. 270–621, OMB Control No. 3235–0672.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit an extension for this current collection of information to the Office of Management and Budget for approval.

The Commission invites comment on updates to its Electronic Data Collection System database (the Database), which will support information provided by members of the public who would like to file an online tip, complaint or referral (TCR) to the Commission. The Database will be a web based e-filed dynamic report based on technology that pre-populates and establishes a series of questions based on the data that the individual enters. The individual will then complete specific information on the subject(s) and nature of the suspicious activity, using the data elements appropriate to the type of complaint or subject. The information collection is voluntary. The public interface to the Database will be available using the agency's Web site, *www.sec.gov.* The Commission estimates that it takes a complainant, on average, 30 minutes to submit a TCR through the Database. Based on the receipt of an average of approximately 16,000 annual TCRs for the past three fiscal years, the Commission estimates that the annual reporting burden is 8,000 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. Please direct your written comments to Pamela Dyson, Director/ Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 12, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12442 Filed 6–14–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80900; File No. SR–ICC–2017–005]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Withdrawal of Proposed Rule Change Relating to ICC's Liquidity Risk Management Framework and ICC's Stress Testing Framework

June 9, 2017.

On May 16, 2017, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the ICC Liquidity Risk Management Framework and the ICC Stress Testing Framework. Notice of the proposed rule change was published in the **Federal Register** on June 6, 2017.[3] The Commission did not receive comments on the proposed rule change.

On June 8, 2017, ICC withdrew the proposed rule change (SR–ICC–2017–005).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–12377 Filed 6–14–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17a–2, SEC File No. 270–189, OMB Control No. 3235–0201.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–2 (17 CFR 240.17a–2), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–2 requires underwriters to maintain information regarding stabilizing activities conducted in accordance with Rule 104 of Regulation M. The collections of information under Regulation M and Rule 17a–2 are necessary for covered persons to obtain certain benefits or to comply with certain requirements. The collections of information are necessary to provide the Commission with information regarding syndicate covering transactions and penalty bids. The Commission may review this information during periodic examinations or with respect to investigations. Except for the information required to be kept under Rule 104(i) (17 CFR 242.104(i)) and Rule 17a–2(c), none of the information required to be collected or disclosed for PRA purposes will be kept confidential. The recordkeeping requirement of Rule 17a–2 requires the information be maintained in a separate file, or in a separately retrievable format, for a period of three years, the first two years in an easily accessible place, consistent with the requirements of Exchange Act Rule 17a–4(f) (17 CFR 240.17a–4(f)).

There are approximately 716 respondents per year that require an aggregate total of 3,580 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 5 hours to complete. Thus, the total compliance burden per year is 3,580 burden hours. The total internal compliance cost for the respondents is approximately $232,700, resulting in an internal cost of compliance for each respondent per response of approximately $325.00 (*i.e.,* $232,700.00/716 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *http://www.reginfo.gov.* Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov* ; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 9, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12431 Filed 6–14–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80895; File No. SR–ICC–2017–006]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change Relating to ICC's End-of-Day Price Discovery Policies and Procedures

June 9, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4,[2] notice is hereby given that on May 25, 2017, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to make revisions to the ICC End-of-Day Price Discovery Policies and Procedures (''Pricing Policy'') related to the market variability bid-offer width (''BOW'') scaling methodology, as well as additional clean-up changes. These revisions do not require any changes to the ICC Clearing Rules (''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–80818 (May 31, 2017), 82 FR 26196 (June 6, 2017).

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes revising its Pricing Policy to make changes related to the market variability BOW scaling methodology. Specifically, ICC proposes the introduction of an automated assessment of market variability and, if appropriate, an automatic widening of BOWs. This automated assessment feature was initially incorporated in the Pricing Policy as a considered future enhancement; ICC now wishes to update the policy to implement the enhancement. ICC believes the enhancement will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions cleared by ICC.

(a) Summary of Proposed Changes

Each business day, ICC determines end-of-day levels through its established price discovery process, based on end-of-day submissions from its Clearing Participants. ICC uses these levels for mark-to-market and risk management purposes. As part of its price discovery process, ICC determines BOWs for each clearing-eligible instrument. The price discovery process uses the BOWs as inputs in the determination of end-of-day levels and Firm Trades. ICC has developed systems that automatically determine the BOW to use for each clearing-eligible instrument. These systems rely on BOW information from intraday market data to make this determination. To ensure ICC's systems, informed by the available intraday data, are determining appropriate BOWs, the Risk Department currently monitors the markets and has the ability to over-ride the system-determined BOWs. During periods of high market variability, there can be a significant number of adjustments required to be manually determined and manually input into ICC's systems in a short period, introducing operational risk. ICC's proposal reduces this operational risk by replacing the manual determination and manual adjustments with well-defined algorithmic adjustments executed automatically by ICC's systems.

ICC proposes to introduce an automated widening of BOWs when there may be a potential discrepancy between the BOWs determined using the current process and BOWs that are more indicative of market conditions based on the dispersion of market mid-levels of intraday quotes.[3] To determine when a potential for such discrepancy may exist, and by how much to widen the BOWs, ICC introduces a new metric, Variability Level, which it computes based on the intraday movement in mid-levels relative to the pre-defined BOWs established through its current procedures for extreme market conditions.

ICC also proposes clean-up changes to the Pricing Policy, including removing details of a planned (never implemented) addition of an intraday quote filtering algorithm and moving the description of the current process from a footnote to the main body of the document, and updating inaccurate table references throughout the policy.

Variability Level Determination

Under the proposed enhancement, ICC computes a Variability Level for the on-the-run instrument in each of the major index families that it clears. For each instrument, ICC's systems establish a time series of intraday mid-levels from that day from available market data.[4] For intraday mid-levels falling outside of one pre-defined BOW from the prior day's end-of-day level, the Variability Level is the maximum deviation of the time series from the prior end-of-day level divided by the pre-defined BOW. For intraday mid-levels falling within one pre-defined BOW from the prior day's end-of-day level, the Variability Level is set to 1.0 if the range of mid-levels in the time series is less than or equal to the pre-defined BOW, and set to 1.2 if the range of mid-levels in the time series is greater than the pre-defined BOW. ICC establishes Variability Bands that correspond to specific ranges of Variability Level in order to classify the magnitude of the observed variability into band 0, 1, 2, etc. Variability Band 0 is the lowest range of Variability Level, Variability Band 1 is the next higher range of Variability Level, and so on.

Market-Proxy Variability Bands

Under the proposed enhancement, to create a measure of the level of variability for North American (CDX), European (iTraxx), Emerging Market and Asia Pacific markets, ICC assigns each of the index instruments for which it determines a Variability Band to one of those markets. For example, ICC assigns CDX.NA.IG and CDX.NA.HY instruments to the North American market. ICC determines the Market-Proxy Variability Band for each market as the largest Variability Band computed for any of the index instruments assigned to that market.

Determination of EOD BOWs for Index Instruments

ICC's current price discovery process for index instruments selects between one of three pre-defined BOWs, based on which is most representative of the BOWs observed in intraday market data. The pre-defined Regime 1 (normal), Regime 2 (volatile) and Regime 3 (extreme) BOWs are progressively wider. The proposed enhancement adjusts the regime selected by the current process depending on the computed Market-Proxy Variability Band for the market to which ICC has assigned the given instrument. The adjustment is none, one regime (moving from Regime 1 to Regime 2 or from Regime 2 to Regime 3), and two regimes (moving from Regime 1 to Regime 3 or from Regime 2 to Regime 3). Higher Market-Proxy Variability Bands result in a larger adjustment. ICC assigns index instruments to specific markets based on the region related to the reference entities of their constituent.

Determination of EOD BOWs for Single Name (''SN'') Instruments

ICC's current price discovery process derives BOWs for SN instruments based on the BOWs quoted in intraday market data, and applies certain scaling factors to arrive at the EOD BOW for SN instruments. The proposed enhancement applies an additional scaling factor to the BOWs derived by the current process, depending on the computed Market-Proxy Variability Band for the market to which ICC assigns the given instrument. The scaling factors start at 1 (no adjustment) and are larger for higher Market-Proxy Variability Bands. ICC assigns SN instruments to markets based on the region related to the reference entity of the instrument.

Determination of Consensus BOWs and Correction of Inaccurate Table References

The current version of the Pricing Policy includes details of an intraday quote filtering algorithm, which was, at the time of inclusion, a planned enhancement and which has never been implemented to determine consensus

[3] Pursuant to discussions via email with ICC's internal counsel on June 8, 2017, staff in the Division of Trading and Markets modified the text of this sentence to clarify that the automated widening of the BOWs will occur where there is a potential discrepancy between the BOWs determined using the current process and BOWs that are more indicative of market conditions based on the dispersion of market mid-levels of intraday quotes.

[4] Pursuant to discussions via email with ICC's internal counsel on June 8, 2017, staff in the Division of Trading and Markets modified the text of this sentence to clarify that the time series of intraday mid-levels is established from mid-levels for that particular day.

BOWs. ICC proposes deleting the text describing such algorithm. The text describing ICC's current practices for determining consensus BOWs is currently set forth in a footnote within the policy. ICC proposes moving this description into the main text of the policy. ICC has also corrected inaccurate table references throughout the policy.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency be designed to protect investors and the public interest and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[6] [*sic*]because ICC believes that the proposed rule changes will assure the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the proposed revisions allow for the automatic adjustment of BOWs to appropriate levels during periods of high market variability, thus assisting ICC in ensuring it maintains market appropriate BOWs in all market conditions. Appropriate BOWs ensure ICC maintains an accurate and effective EOD price discovery process, which includes the determination of EOD pricing levels and Firm Trade determinations. As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) [7] of the Act.

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule changes would have any impact, or impose any burden, on competition. The proposed changes to ICC's market variability BOW scaling methodology will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] Id.

[7] Id.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2017–006 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–ICC–2017–006. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2017–006 and should be submitted on or before July 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–12376 Filed 6–14–17; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10026]

Issuance of Presidential Permit to the State of Texas Authorizing It To Construct, Operate, and Maintain the Presidio-Ojinaga International Bridge at the International Boundary Between the United States and Mexico, Including a New Two-Lane Bridge Span

SUMMARY: The Department of State issued a Presidential permit to the State of Texas on May 30, 2017, authorizing it to construct, operate, and maintain the Presidio-Ojinaga International Bridge at the international boundary between the United States and Mexico, including a new two-lane bridge span. In making this determination, the Department provided public notice of the proposed permit (81 FR 66320, September 27, 2016), offered the opportunity for comment, and consulted with other federal agencies, as required by Executive Order 11423, as amended.

FOR FURTHER INFORMATION CONTACT: Contact the Office of Mexican Affairs' Border Affairs Unit via email at *WHABorderAffairs@state.gov,* by phone at 202–647–9894, or by mail at Office of Mexican Affairs—Room 3924, Department of State, 2201 C St. NW.,

Washington, DC 20520. Information about Presidential permits is available on the Internet at *http://www.state.gov/p/wha/rt/permit/*.

SUPPLEMENTARY INFORMATION: The following is the text of the issued permit:

Presidential Permit

Authorizing the State of Texas To Construct, Operate, and Maintain the Presidio-Ojinaga International Bridge at the International Boundary Between the United States and Mexico

By virtue of the authority vested in me as the Acting Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, including those authorities under Executive Order 11423, 33 FR 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004); the International Bridge Act of 1972 (86 Stat. 731; 33 U.S.C. 535 *et seq.*); and Department of State Delegation of Authority 118–2 of January 26, 2006 and Delegation 415 of January 18, 2017; having considered the environmental effects of the proposed action consistent with the National Environmental Policy Act of 1969, as amended (83 Stat. 852, 42 U.S.C. 4321 *et seq.*), and other statutes relating to environmental concerns; having considered the proposed action consistent with the National Historic Preservation Act of 1966, as amended (80 Stat. 917, 16 U.S.C. 470f *et seq.*); taking into account an amended permit issued May 4, 1982 and an earlier permit dated July 2, 1976, and having requested and received the views of federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the State of Texas (hereinafter referred to as ''permittee''), to construct, operate, and maintain the Presidio-Ojinaga International Bridge (hereinafter referred to as the ''bridge''), including a new two-lane second bridge structure (hereinafter referred to as the ''new two-lane bridge''), and border crossing.

The term ''facilities'' as used in this permit means the bridge, its approaches and any land, structures, or installations appurtenant thereto, including the new two-lane bridge for southbound traffic into Mexico as described in the permittee's September 2016 application for a Presidential permit (the ''Application'').

The term ''U.S. facilities'' as used in this permit means those parts of the facilities in the United States, as described in the Application.

This permit is subject to the following conditions:

Article 1. (1) The U.S. facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit, and any amendment thereof. This permit may be terminated or amended at the discretion of the Secretary of State or the Secretary's delegate or upon proper application therefore. The permittee shall make no substantial change in the U.S. facilities, the location of the U.S. facilities, or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

(2) The construction, operation, and maintenance of the U.S. facilities shall be in all material respects as described in the Application and, to the extent not inconsistent with that Application, the permittee's application for the permit issued May 4, 1982.

Article 2. The standards for, and the manner of, the construction, operation, and maintenance of the U.S. facilities shall be subject to inspection and approval by the representatives of appropriate federal, state, and local agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 3. The permittee shall comply with all applicable federal, state, local, and tribal laws and regulations regarding the construction, operation, and maintenance of the U.S. facilities and with all applicable industrial codes. The permittee shall obtain all requisite permits from the relevant Mexican authorities as well as from the relevant state and local governmental entities and relevant federal agencies.

Article 4. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the U.S. facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other appropriate action with respect to, this portion of the U.S. facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other action taken at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession, removal, or other action.

Article 5. If, in the future, it should appear to the U.S. Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate) that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the U.S. Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate), to remove or alter such facilities as are owned by it so as to render navigation through such waters free and unobstructed.

Article 6. All construction, operation, and maintenance of the U.S. facilities under this permit shall be subject to the limitations, terms, and conditions issued by any competent agency of the U.S. government, including but not limited to the U.S. Coast Guard, the Department of Homeland Security, the General Services Administration, and the U.S. Section of the International Boundary and Water Commission (USIBWC). This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 7. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the U.S. facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such U.S. facilities upon the basis of a reasonable profit in normal conditions and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the U.S. facilities or any part thereof shall be immediately notified in writing to the U.S. Department of State, including submission of information identifying the transferee. In the event of such transfer of ownership or control, this permit shall remain in force and the U.S. facilities shall be subject to all the conditions, permissions, and

requirements of this permit and any amendments thereto unless subsequently terminated or amended by the Secretary of State or the Secretary's delegate.

Article 9. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary and appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of the construction, operation, or maintenance of the facilities.

(3) The permittee shall maintain the U.S. facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations. The bridge shall be operated as a toll-free facility.

(4) The permittee shall obtain a license from the USIBWC before commencing construction.

Article 10. The County of Presidio, Texas shall provide the General Services Administration an adequate Federal inspection facility at the U.S. terminal of the bridge.

Article 11. The permittee shall take all necessary measures to prevent or mitigate adverse impacts on or disruption of the human environment in connection with the operation and maintenance of the U.S. facilities, including those mitigation measures set forth in the Final Environmental Assessment dated July 2016 and in the U.S. Department of Transportation Federal Highway Administration Finding of No Significant Impact dated August 2, 2016 and any other measures deemed prudent by the permittee.

Article 12. The permittee shall not begin construction until it has been informed that the Government of the United States and the Government of Mexico have exchanged diplomatic notes confirming that both governments authorized the commencement of construction of the new two-lane bridge.

Article 13. The permittee shall provide information upon request to the Department of State with regard to the U.S. facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the U.S. facilities.

Article 14. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun, at such time as construction is completed, interrupted, or discontinued, and at other times as may be designated by the Department of State.

Article 15. The permittee shall file with the appropriate agencies of the U.S. government such statements or reports under oath with respect to the U.S. facilities, and/or the permittee's activities and operations in connection therewith, as are now, or may hereafter be, required under any laws or regulations of the U.S. government or its agencies.

Article 16. Permission to construct the new two-lane bridge shall expire ten years from the date of issuance of this permit in the event that the permittee has not commenced construction of the new two-lane bridge as described in the September 2016 application by that deadline. The remaining provisions of this permit shall remain in full force and effect.

In witness whereof, I, Judith G. Garber, Acting Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, have hereunto set my hand this _30th_day of_May_, 2017 in the City of Washington, District of Columbia.

Judith G. Garber

Acting Assistant Secretary Bureau of Ocean and International Environmental and Scientific Affairs

End of permit text.

Colleen A. Hoey,

Director, Office of Mexican Affairs.

[FR Doc. 2017–12371 Filed 6–14–17; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty First Meeting of the NextGen Advisory Committee (NAC)

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

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Twenty First Meeting of the NextGen Advisory Committee (NAC). NAC is a subcommittee of the federal advisory committee, RTCA Inc.

DATES: The meeting will be held June 28, 2017, 08:30 a.m.–2 p.m.

ADDRESSES: The meeting will be held at: The FedEx Experience Center (EC), 3851 Airways Boulevard, Module C, 1st Floor, Memphis, Tennessee 38116.

FOR FURTHER INFORMATION CONTACT: Andy Cebula, NAC Secretariat, (202) 330–0652, *acebula@rtca.org,* 1150 18 Street NW., Suite 910, Washington, DC 20036, or by fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Twenty First Meeting of the NextGen Advisory Committee (NAC). The agenda will include the following:

Wednesday, June 28, 2017, 8:30 a.m. to 2 p.m.

1. Opening of Meeting/Introduction of NAC Members—Chairman David Bronczek
2. Official Statement of Designated Federal Official—Victoria Wassmer, FAA Acting Deputy Administrator
3. Review and Approval of February 22, 2017 Meeting Summary
4. Chairman's Report—Chairman Bronczek
5. FAA Report—FAA
6. Northeast Corridor Phase One Tasking—Final Report for consideration for approval
7. Enhanced Surveillance Task Group—Final Report for consideration for approval
8. ADS–B Equipage
9. NextGen Priorities Status—NextGen Integration Working Group
10. Joint Analysis Team—Wake ReCategorization, PBN Procedures for consideration for approval
11. Summary of meeting and next steps
12. Closing Comments—DFO and NAC Chairman
13. Other business
14. Adjourn

Although the NAC meeting is open to the public, the meeting location has limited space and security protocols that require advanced registration.

To attend: Please email *mforrest@rtca.org* with name, company, and phone number contact to pre-register no later than June 19, 2017.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 13 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–12516 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2016–0015]

Emergency Route Working Group—Notice of Public Meetings

AGENCY: Federal Highway Administration (FHWA); DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces three meetings of the Emergency Route Working Group (ERWG). The Federal Advisory Committee Act (FACA) requires that notice of such meetings be published in the **Federal Register**.

DATES: Three public meetings will be held on (all times Eastern):

- Tuesday, June 27, 2017, from 8:30 a.m.–4:30 p.m., and Wednesday, June 28, 2017, from 8:30 a.m.–12:30 p.m.
- Wednesday, July 12, 2017, from 8:30 a.m.–4:30 p.m., and Thursday, July 13, 2017, from 8:30 a.m.–12:30 p.m.
- Wednesday, August 9, 2017, from 8:30 a.m.–4:30 p.m., and Thursday, August 10, 2017, from 8:30 a.m.–12:30 p.m.

ADDRESSES: All sessions of these public meetings will be held at U.S. Department of Transportation, 1200 New Jersey Ave., Conference Center, Washington, DC 20590.

Due to the limited amount of parking around DOT Headquarters, use of public transit is strongly advised. The DOT is served by the Navy Yard Metrorail Station (Green line). The closest exit to DOT Headquarters is the Navy Yard exit. Train and bus schedules are available at Metrorail's Web site at: *http://www.wmata.com/rider_tools/tripplanner/tripplanner_form_solo.cfm.*

FOR FURTHER INFORMATION CONTACT: Crystal Jones, FHWA Office of Freight Management and Operations, (202) 366–2976, or via email at *Crystal.Jones@dot.gov* or *erwg@dot.gov.* For legal questions, contact Seetha Srinivasan, FHWA Office of the Chief Counsel, (202) 366–4099 or via email at *Seetha.Srinivasan@dot.gov.* Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov;* the Government Publishing Office's database at: *https://www.gpo.gov/fdsys/;* or the specific docket page at: *www.regulations.gov.*

Background

Purpose of the Committee: Section 5502 of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94) requires DOT to establish an emergency route working group to determine best practices for expeditious State approval of special permits for vehicles involved in emergency response and recovery. Pursuant to the Federal Advisory Committee Act, FHWA's Office of Freight Management and Operations is announcing a public meeting of the Emergency Route Working Group. These public meeting will be held on:

- Tuesday, June 27, 2017, from 8:30 a.m.–4:30 p.m., and Wednesday, June 28, 2017, from 8:30 a.m.–12:30 p.m.
- Wednesday, July 12, 2017, from 8:30 a.m.–4:30 p.m., and Thursday, July 13, 2017, from 8:30 a.m.–12:30 p.m.
- Wednesday, August 9, 2017, from 8:30 a.m.–4:30 p.m., and Thursday, August 10, 2017, from 8:30 a.m.–12:30 p.m.

These meetings are being conducted to develop recommendations for the DOT Secretary on issues and associated best practices to encourage expeditious State approval of special permits for vehicles involved in emergency response and recovery.

Tentative Agenda: The agenda will include a topical discussion on considerations for best practices; including whether:

(1) Impediments currently exist that prevent expeditious State approval of special permits for vehicles involved in emergency response and recovery;

(2) it is possible to pre-identify and establish emergency routes between States through which infrastructure repair materials could be delivered following a natural disaster or emergency;

(3) a State could pre-designate an emergency route identified under paragraph (2) as a certified emergency route if a motor vehicle that exceeds the otherwise applicable Federal and State truck size and weight limits may safely operate along such route during periods of declared emergency and recovery from such periods; and

(4) an online map could be created to identify each pre-designated emergency route under paragraph (3), including information on specific vehicle limitations, obligations, and notification requirements along that route.

Public Participation: All sessions of these meetings are open to the public. The Designated Federal Officer and the Chair of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting by submitting an electronic copy of that statement to *erwg@dot.gov* or the specific docket page at: *www.regulations.gov.* If you would like to make oral statements regarding any of the items on the agenda, you should contact Crystal Jones at the phone number listed above or email your request to *erwg@dot.gov.* You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provisions will be made to include any such presentation on the agenda. Public comment will be limited to 3 minutes per speaker, per topic.

Minutes: An electronic copy of the minutes from all meetings will be available for download within 60 days of the conclusion of the meeting at: *http://ops.fhwa.dot.gov/fastact/erwg/index.htm.*

Authority: Section 5502 of Pub. L. 114–94; 5 U.S.C. Appendix 2; 41 CFR 102–3.65; 49 CFR 1.85.

Issued on: June 12, 2017.

Walter C. Waidelich, Jr.,

Acting Deputy Administrator, Federal Highway Administration.

[FR Doc. 2017–12451 Filed 6–12–17; 4:15 pm]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0128]

Pipeline Safety: Meeting of the Voluntary Information-Sharing System Working Group

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting of the recently created Voluntary Information-Sharing System (VIS) Working Group. The VIS Working Group will convene to continue the discussion on the need for, and the identification of, a voluntary information-sharing system.

DATES: The VIS Working Group will meet on June 29, 2017, from 8:30 a.m. to 5 p.m. and June 30, 2017, from 8:30 a.m. to 12 p.m. ET.

The meeting will not be web cast; however, any documents presented will be available on the meeting Web site and posted on the E-Gov Web site: *http://www.regulations.gov* under docket number PHMSA–2016–0128 within 30 days following the meeting.

ADDRESSES: The meeting will be held at the Hilton Arlington, 950 North Stafford Street, Arlington, VA 22203. The meeting agenda and any additional information will be published on the following VIS Working Group and registration page at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=125*.

Public Participation

This meeting will be open to the public. Members of the public who wish to attend in person are asked to register at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=125* no later than 10 days prior to the meeting date, in order to facilitate entry and guarantee seating. Members of the public who attend in person will also be provided an opportunity to make a statement during the meeting.

Services for Individuals With Disabilities: The public meeting will be physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Cheryl Whetsel at *cheryl.whetsel@dot.gov* 10 days prior to the meeting.

Written comments: Written comments on the meeting may be submitted to the docket in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: Identify the docket number PHMSA–2016–0128 at the beginning of your comments. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or view the Privacy Notice at *www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2016–0128.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail.

Privacy Act Statement

DOT may solicit comments from the public regarding certain general notices. 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.*

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Cheryl Whetsel by phone at 202–366–4431 or by email at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The VIS Working Group is a recently created advisory committee established in accordance with Section 10 of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (Pub. L. 114–183), the Federal Advisory Committee Act of 1972 (5 U.S.C., App. 2, as amended) and 41 CFR 102–3.50(a). On December 15, 2016, the Secretary of Transportation (the Secretary) appointed 24 members to the committee. The first committee meeting convened on December 19, 2016, to conduct committee and staff introductions, review the mandate requirements, review the committee charter and bylaws, introduce the concept of voluntary information-sharing, and discuss plans for future meetings.

II. Meeting Details and Agenda

The VIS Working Group agenda will include briefings on topics such as mandate requirements, existing integrity management regulations, data types and tools, ILI repair methods, geographic information system pipeline data and operator implementation, potential subcommittee needs, past integrity management lessons learned, examples of existing information-sharing systems, safety management systems, and the potential need for additional expertise with committee membership. As part of its work, the committee will ultimately provide recommendations to the Secretary, as required and specifically outlined in Section 10 of Public Law 114–183, addressing:

(a) The need for, and the identification of, a system to ensure that dig verification data are shared with in-line inspection operators to the extent consistent with the need to maintain proprietary and security-sensitive data in a confidential manner to improve pipeline safety and inspection technology;

(b) Ways to encourage the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;

(c) Opportunities to share data, including dig verification data between operators of pipeline facilities and in-line inspector vendors to expand knowledge of the advantages and disadvantages of the different types of in-line inspection technology and methodologies;

(d) Options to create a secure system that protects proprietary data while encouraging the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;

(e) Means and best practices for the protection of safety and security-sensitive information and proprietary information; and

(f) Regulatory, funding, and legal barriers to sharing the information described in paragraphs (a) through (d).

The Secretary will publish the VIS Working Group's recommendations on a publicly available DOT Web site. The VIS Working Group will fulfill its purpose once its recommendations are published online.

The agenda will be published on the PHMSA meeting page *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=125,* once it is finalized.

Issued in Washington, DC, on June 13, 2017, under authority delegated in 49 CFR 1.97.

Linda Daugherty,

Deputy Associate Administrator for Field Operations.

[FR Doc. 2017–12517 Filed 6–14–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions in 2017 of a currently approved information collection that is proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the revision of the Annual Report of U.S. Ownership of Foreign Securities, including Selected Money Market Instruments. The next such collection is an annual survey to be conducted as of December 31, 2017.

DATES: Written comments should be received on or before August 14, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422 MT, 1500 Pennsylvania Avenue NW., Washington, DC 20220. In view of possible delays in mail delivery, you may also wish to send a copy to Mr. Wolkow by email (*comments2TIC@do.treas.gov*) or FAX (202–622–2009). Mr. Wolkow can also be reached by telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed form and instructions are available at Part II of the Treasury International Capital (TIC) Forms Web page ''Forms SHL/SHLA & SHC/SHCA'', at: *https://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx#shc.* The proposed forms (called schedules) are unchanged from the previous survey that was conducted as of December 31, 2016 (SHC(2016)). The ''Current Actions'' below are changes in the previous instructions. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital (TIC) Form SHC/SHCA ''U.S. Ownership of Foreign Securities, including Selected Money Market Instruments.''

OMB Control Number: 1505–0146.

Abstract: Form SHC/SHCA is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 3101 *et seq.*; E.O. 11961; 31 CFR 129) and is used to conduct annual surveys of U.S. residents' ownership of foreign securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The SHC/SHCA survey is part of an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most of the major industrial and financial countries conduct similar surveys.

The data collection includes large benchmark surveys conducted every five years, and smaller annual surveys conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey and of recent SLT reports to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys is based primarily on the data submitted during the preceding benchmark survey and on data submitted on SLT reports around June of the survey year. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHC is used for the benchmark survey of all significant U.S.-resident custodians and end-investors regarding U.S. ownership of foreign securities. In non-benchmark years Form SHCA is used for the annual surveys of primarily the very largest U.S.-resident custodians and end-investors.

Current Actions: No changes in the forms (called schedules) are made from the previous survey that was conducted as of December 31, 2016. The proposed changes in the instructions are:

(1) Because the next survey is an annual survey (SHCA), section II.A in the instructions, ''Who Must Report'', is changed to begin with the following paragraph ''All U.S.-resident entities that have been contacted by the Federal Reserve Bank of New York to report must file the SHCA report. (See Section II.C, Exemptions.) All other entities are exempt from reporting.'' Elsewhere in the instructions, all references to ''SHC'' (the benchmark survey of 2016) are changed to ''SHCA''.

(2) In section II.A.(2) ''Who Must Report/End-Investors'', the list is edited to show ''Intermediate Holding Companies'' (IHCs), which are defined by Regulation YY, 12 CFR 252, to clarify that IHCs should follow the same consolidation rules that are applicable to Bank Holding Companies (BHCs), Financial Holding Companies (FHCs), and Savings and Loan Holding Companies. In addition, IHCs are mentioned in the line-by-line instructions for Schedule 1 (section IV.A.8.5) and Schedule 2 (section IV.B.15.6).

(3) In section II.A.2 ''End-Investors'' and in section III.C.3.(a) under the subsection ''How to Report Hedge Funds and other alternative investment vehicles'', the list of legal entities is expanded to include fund ''administrators''.

(4) The section II.A.2 ''End-Investors'', section III.A ''Reportable Foreign Securities/Equity Interests'', section III.C.1 ''Funds and Related Holdings'' and the new section III.C.3.(c) ''Direct investment exception for certain private funds'' are all revised to list out separately ''certain private funds'', which are a subgroup of the class of financial entities defined by the Securities and Exchange Commission as private funds on Form PF: ''any issuer that would be an investment company as defined in section 3 of the Investment Company Act of 1940 but for section 3(c)(1) or 3(c)(7) of . . . [that] Act.''. In cooperation with the Bureau of Economic Analysis (BEA) effective for TIC reports beginning as of January 2017 and afterwards, reporters of investments in certain private funds that meet the definition of direct investment (that is, ownership by one person of 10 percent or more of the voting interest of a business enterprise) but display characteristics of portfolio investment (specifically, investors who do not intend to control or influence the management of an operating company) are required to report through the Treasury International Capital (TIC) reporting system, where other related portfolio investments are already being reported, and not to report on BEA's direct investment surveys. Specifically, cross-border investments by or into private funds are included in TIC reports regardless of ownership share if they meet BOTH of the following two criteria: (i) The private fund does not own, directly or indirectly through another business enterprise, an ''operating company''—*i.e.,* a business enterprise that is not a private fund or a holding company—in which the U.S. parent owns at least 10 percent of the voting interest, and (ii) If the private fund is owned indirectly (through one or more other business enterprises), there are no ''operating companies'' between the U.S. parent and the indirectly-owned private fund. Direct

investment in operating companies, including investment by and through private funds, will continue to be reported to BEA. Guidance on the decision to report investments in certain private funds or between entities of certain private funds in the TIC system or in BEA surveys can be found at: *https://www.bea.gov/privatefunds*; use the tool labeled ''U.S. Investments in Foreign Private Funds''. This change in reporting requirements aligns the U.S. direct investment and portfolio investment data more closely with the intent of the investment with respect to management control. In addition, it reduces burden for respondents, many of whom previously reported both to the TIC reporting system and to BEA's direct investment reporting system. Note: this change applies also to these other TIC forms if the reporting requirements of the form are met: BC, BL–1, BL–2, BQ–1, BQ–2, BQ–3, D, S, SLT, and SHL/SHLA.

(5) Section III.G ''Direct Investment'' has been, in effect, expanded to be equal to the detailed description of direct investment in the TIC GLOSSARY.

(6) In the ''Line-by-Line Instructions for Schedule 1'' (section IV.A in the instructions), the phrase in parentheses in line 20 is clarified and reads ''(records with Schedule 2, Item 12 = security types 1, 2, 3, or 4)''.

(7) In the ''Line-by-Line Instructions for Schedule 1'' (section IV.A in the instructions), the phrase in parentheses in line 21 is clarified and reads ''(records with Schedule 2, Item 12 = security types 5, 6, 7, 8, 9, 10, or 11)''.

(8) In the ''Line-by-Line Instructions for Schedule 1'' (section IV.A in the instructions), the phrase in parentheses in line 22 is clarified and reads ''(records with Schedule 2, Item 12 = security types 6, 7, 8, 9, 10, or 11)''.

(9) In the ''Line-by-Line Instructions for Schedule 1'' (section IV.A in the instructions), the phrase in parentheses in line 23 is clarified and reads ''(records with Schedule 2, Item 12 = security type 12)''.

(10) In the ''Line-by-Line Instructions for Schedule 2'', the third part of the note for Type 8 in line 8 is changed to read ''(3) Short-term sovereign debt securities should be reported as type 11; and (4) . . .''

(11) In the ''Line-by-Line Instructions for Schedule 2'', the note for ''Type 11'' in line 11 is changed to read ''Type 11 should include all debt other than asset-backed securities that is not covered in types 5–10, including short-term sovereign debt securities.''

(12) In the ''Line-by-Line Instructions for Schedule 3'' (section IV.C in the instructions), subpart 3 ''Custodian Code'' is expanded to add the last line with bullet items ''If you are not required to submit Schedule 2 records, please submit up to two additional Schedule 3 reports:

- Using custodian code 77, submit summary data on foreign securities held directly with foreign resident custodians, including foreign-resident offices of U.S. banks or U.S. broker/dealers, and with foreign-resident central securities depositories.
- Using custodian code 88, submit summary data on foreign securities held directly, managed directly, or held with U.S.-resident central securities depositories (and for which no U.S.-resident custodian is used).''

In addition, codes 77 and 88 are included in Appendix F: ''List of Custodian Codes''.

(13) Some other clarifications may be made in other parts of the instructions.

The changes will improve overall survey reporting.

Type of Review: Revision of currently approved data collection.

Affected Public: Business/Financial Institutions.

Form: TIC SHC/SHCA, Schedules 1, 2 and 3 (1505–0146).

Estimated Number of Respondents: An annual average (over five years) of 306, but this varies widely from about 785 in benchmark years (once every five years) to about 190 in other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 174 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; custodians of securities providing security-by-security information will require an average of 361 hours, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 121 hours; and end-investors and custodians employing U.S. custodians will require an average of 41 hours. (b) In a non-benchmark year, which occurs four years out of every five years: Custodians of securities providing security-by-security information will require an average of 546 hours (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 146 hours; and reporters entrusting their foreign securities to U.S. custodians will require an average of 49 hours. The exemption level, which applies only in benchmark years when filing schedules 2 or 3 or both, for custodians and for end-investors is the holding of less than $200 million in reportable foreign securities owned by U.S. residents. For schedule 2, end-investors should exclude securities that are held with their unaffiliated U.S.-resident custodians.

Estimated Total Annual Burden Hours: An annual average (over five years) of 53,260 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2017–12361 Filed 6–14–17; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee: National Academic Affiliations Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2 that a meeting of the VA National Academic Affiliations Council (NAAC) will be held July 12, 2017–July 13, 2017 in Washington DC. The July 12, 2017 session will be held in the Sonny Montgomery Conference Center, Room 230, 810 Vermont Avenue NW., Washington, DC 20420. This session will begin at 9:00 a.m. and end at 4:45 p.m. The July 13, 2017 session will held in Room HVC–201AB of the U.S. Capitol Visitors Center, First Street NE.,

Washington, DC 20515. This session will begin at 9:00 a.m. and adjourn at 2:00 p.m. The meetings are open to the public.

The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On July 12, 2017, the Council will receive two briefings on the Blue Ribbon Panel on VA-Medical School Affiliations and a historical review of previous NAAC recommendations. These presentations will be followed by a visit from the Interim Deputy Secretary of Veterans Affairs who will share his thoughts on VA transformation and entertain questions from the Council members. During the afternoon, the Council will explore potential improvements to VA's relationship with academic affiliates and specifically discuss the responses received from the Secretary of Veterans Affairs' March 24, 2017 letter to VA medical school affiliates. The July 12, 2017 session will conclude with presentations from the VA Office of Research and Development and the National Research Advisory Council. On July 13, 2017, the Council will receive presentations on the 2017 VA Diversity and Inclusion Summit and the Veterans Access, Choice and Accountability Act's Graduate Medical Education expansion effort. Rep. Phil Roe, M.D. (R–TN), Chairman, House Committee on Veterans Affairs, and Rep. Sanford Bishop (D–GA), Ranking Member of the House Appropriations Committee, Military Construction and Veterans Affairs Subcommittee are invited to participate in these portions of the meeting. Other topics scheduled for the July 13, 2017 session include an update on the status of VA contracting policy development relevant to academic affiliates and an exploration of future initiatives for the NAAC facilitated by the Council Chair. The Council will receive public comments from 4:30 p.m. to 4:45 p.m. on July 12, 2017 and again from 1:45 p.m. to 2:00 p.m. on July 13, 2017.

Interested persons may attend and present oral statements to the Council. A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting or at any time, by email to, *Steve.Trynosky@va.gov,* or via mail to Stephen K. Trynosky JD, MPH, MMAS, Designated Federal Officer, Office of Academic Affiliations (10A2D), 810 Vermont Avenue NW., Washington, DC 20420. Any member of the public wishing to attend or seeking additional information should contact Mr. Trynosky via email or by phone at (202) 461–6723. Because the meeting will be held in Government buildings, anyone attending must be prepared to submit to security screening and present a valid photo I.D. Please allow at least 15 minutes prior to the meeting for this process.

Dated: June 12, 2017.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–12418 Filed 6–14–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of computer matching program.

SUMMARY: The Department of Veterans Affairs (VA) provides notice that it intends to conduct a recurring computer-matching program matching Social Security Administration (SSA) Master Beneficiary Records (MBRs) and the Master Files of Social Security Number (SSN) Holders and SSN Applications (Enumeration System) and with VA pension, compensation, and dependency and indemnity compensation (DIC) records. The goal of this match is to identify beneficiaries, who are receiving VA benefits and SSA benefits or earned income, and to reduce or terminate VA benefits, if appropriate. The match will include records of current VA beneficiaries.

DATES: The match will start no sooner than 30 days after publication of this notice in the **Federal Register** (FR), or 40 days after copies of this notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later. The match will end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Written comments concerning this matching program may be submitted by: Mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026 (this is not a toll-free number); or email to *www.Regulations.gov.* All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment.

FOR FURTHER INFORMATION CONTACT: Nancy C. Williams, Pension Analyst, Pension and Fiduciary Service (21P), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461–8394 (this is not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: VA will use this information to verify the income information submitted by beneficiaries in VA's needs-based benefit programs and adjust VA benefit payments as prescribed by law.

The legal authority to conduct this match is 38 U.S.C. 5106, which requires any Federal department or agency to provide VA such information as VA requests for the purposes of determining eligibility for benefits, or verifying other information with respect to payment of benefits.

The VA records involved in the match are in ''Compensation, Pension and Education and Rehabilitation Records—VA (58 VA 21/22/28),'' a system of records which was first published at 41 FR 9294 (March 3, 1976), amended and republished in its entirety at 77 FR 42593 (July 19, 2012). The routine use is number 39 regarding computer matches. The SSA records consist of information from the system of records identified as the SSA MBR, 60–0090, and SSA Enumeration System, 60–0058, routine use number 15.

In accordance with the Privacy Act, 5 U.S.C. 552a(o)(2) and (r), copies of the agreement are being sent to Congress and to the Office of Management and Budget. This notice is provided in accordance with the provisions of Privacy Act of 1974 as amended by Public Law 100–503.

PARTICIPATING AGENCIES:

The Social Security Administration (SSA)

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The Privacy Act, 5 U.S.C. 552a, and 38 U.S.C. 5106 authorize VA to enter into this CMA with SSA.

PURPOSE(S):

To re-establish a CMA with SSA for determining eligibility to continue to receive benefits authorized by the Department of Veterans Affairs (VA).

CATEGORIES OF INDIVIDUALS:

Veterans and beneficiaries who apply for VA income benefits.

CATEGORIES OF RECORDS:

VA will provide SSA with an electronic file in a format defined by SSA that contains the necessary identifying information for applicable beneficiaries and their dependents. Each VA input file will contain variables such as: Social Security Number for Primary Number Holder; Last Name; First Name; Middle Name/Initial; Date of Birth (MMDDCCYY); Sex Code (Blank); VA File Number; Agency Code ''VA''; Type of Benefit; Veteran with Spouse Indicator; Payee Number; Type of Record; Verified Payment Indicator; Verification Indicator; Processing Code ''212''; Verification Account Number (VAN); and Blanks, or Multiple Request Code. SSA will match the file against the Enumeration System and MBR will generate an output file with information on: Verification code; Death Indicator; Filler; Verification Code; Type of Benefit—Retirement (R), Disability (D) or Survivor (S); Monthly Benefit Credited (MBC); Monthly Benefit Payment (MBP); Medicare Deduction (SMI–B); Effective Date of Monthly Social Security Payment ''CCYYMM''; LAF Code (D=Deferred/withheld money), (E=Monies paid through the Railroad Board), (C=Current pay)) for each of VA's records containing a verified SSN.

SYSTEM(S) OF RECORDS:

SSA will disclose the necessary benefit information electronically from the files of the MBR, system of records number 60–0090, last fully published at 71 FR 1826 (January 11, 2006), amended at 72 FR 69723 (December 10, 2007), and at 78 FR 40542 (July 5, 2013). SSA will disclose SSN verification information from the Enumeration System, system of records number 60–0058, last fully published at 75 FR 82121 (December 29, 2010), amended at 78 FR 40542 (July 5, 2013), and at 79 FR 8780 (February 13, 2014).

VA records involved in this match are in ''VA Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA'' (58 VA 21/22/28), a system of records that was first published at 41 FR 9294 (March 3, 1976), last amended and republished in its entirety at 77 FR 42593 (July 19, 2012).

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs approved this document on May 4, 2017 for publication.

Dated: June 7, 2017.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–12395 Filed 6–14–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0222]

Agency Information Collection Activity Under Review: Proposed Information Collection, Claim for Standard Government Headstone or Marker and Claim for Government Medallion for Placement in a Private Cemetery

AGENCY: National Cemetery Administration (NCA), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with Paperwork Reduction Act (PRA) of 1995, this notice announces that the National Cemetery Administration (NCA), Department of Veterans Affairs will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 17, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0222'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), (202) 461–5870 or email *Cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0222'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; U.S.C. 3501–21.

Title: VA Form 40–1330, Claim for Standard Government Headstone or Marker, and VA Form 40–1330M, Claim for Government Medallion for Placement in a Private Cemetery.

OMB Control Number: 2900–0222.

Type of Review: Reinstatement of a previously approved collection.

Abstract: The National Cemetery Administration (NCA) updated its current VA Form 40–1330 and VA Form 40–1330M. The original VA Form 40–1330 and 40–1330M is a request for a Government-furnished headstone or marker, or medallion, respectively. The updates to the form include the following:

- Change to the Applicant Definition, who can apply for a Government headstone, marker or medallion;
- Information about the Presidential Memorial Certificate (PMC) program and the option to receive a PMC in addition to the headstone, marker or medallion;
- Changes in eligibility for a medallion, consistent with section 301 of Public Law 114–315;
- Addition of language that clarifies that ''mandatory'' and ''optional'' inscription items are provided in English, and that ''additional'' inscription items may be provided in English or non-English text that consists of the Latin Alphabet or numbers;
- Addition of information on VA Form 40–1330 and VA Form 40–1330M related to whether the Veteran was previously determined by VA to be eligible for burial, and related to whether the request is initial or for a replacement headstone or marker;
- Addition of ''Iraq'' and ''Afghanistan'' as indicators of ''War Service,'' consistent with Public Law 114–315;
- Addition of Age at the Time of Death on VA Form 40–1330 and VA Form 40–1330M; and
- Addition of demographic information for statistical reporting purposes only on VA Form 40–1330 and VA Form 40–1330M.

An agency may not conduct or sponsor, and a person is not required to

respond t a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FRN 17740 on April 12, 2017.

Affected Public: Individuals or Households.

Estimated Annual Burden: 88,643 Burden Hours.

Estimated Average Burden per Respondent: 15 Minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 166,135.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–12379 Filed 6–14–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Thursday,
No. 114 June 15, 2017

Part II

Federal Reserve System

12 CFR Part 229
Availability of Funds and Collection of Checks; Final Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1409]

RIN 7100–AD68

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending subparts A, C, and D of Regulation CC, Availability of Funds and Collection of Checks, which implements the Expedited Funds Availability Act of 1987 (EFA Act), the Check Clearing for the 21st Century Act of 2003 (Check 21 Act), and the official staff commentary to the regulation. In the final rule, the Board has modified the current check collection and return requirements to reflect the virtually all-electronic check collection and return environment and to encourage all depositary banks to receive, and paying banks to send, returned checks electronically. The Board has retained, without change, the current same-day settlement rule for paper checks. The Board is also applying Regulation CC's existing check warranties under subpart C to checks that are collected electronically, and in addition, has adopted new warranties and indemnities related to checks collected and returned electronically and to electronically-created items.

DATES: Effective July 1, 2018.

FOR FURTHER INFORMATION CONTACT: Clinton N. Chen, Attorney (202–452–3952), Legal Division; or Ian C.B. Spear, Senior Financial Services Analyst (202–452–3959), Division of Reserve Bank Operations and Payment Systems; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Congress enacted the EFA Act [1] to provide depositors of checks with prompt funds availability and to foster improvements in the check collection and return processes. Section 609(b) directs the Board to consider requiring depository institutions and Federal Reserve Banks to take certain steps to improve the check-processing system, such as automating the check-return process.[2] Section 609(c) authorizes the Board to regulate any aspect of the payment system and any related function of the payment system with respect to checks in order to carry out the provisions of the EFA Act.[3]

The Board implemented the EFA Act in subparts A, B, and C of Regulation CC. Subpart A of Regulation CC contains general information, such as definitions of terms. Subpart B of Regulation CC specifies availability schedules within which banks must make funds available for withdrawal and includes rules regarding exceptions to the schedules, disclosure of funds availability policies, and payment of interest.[4] Subpart C of Regulation CC implements the EFA Act's provisions regarding forward collection and return of checks.

The current provisions of subpart C presume that banks generally handle checks in paper form and include provisions to speed the collection and return of checks, such as the expeditious return requirements for paying and returning banks, authorization to send returns directly to depositary banks, notification of nonpayment of large-dollar returned checks, standards for check indorsement, and specifications for same-day settlement of checks presented to the paying bank.

The Check 21 Act, which became effective in October 2004, facilitated electronic collection and return of checks by permitting banks to create a paper ''substitute check'' from an electronic image and electronic information derived from a paper check. The Check 21 Act authorized banks to provide substitute checks to a bank or a customer that had not agreed to electronic exchange. The Board implemented the Check 21 Act primarily in subpart D of Regulation CC.[5]

II. Summary of the Current, Proposed, and Final Rule

On February 4, 2014, the Board published a notice of proposed rulemaking (''proposal'') intended to facilitate the banking industry's ongoing transition to fully-electronic interbank check collection and return.[6] The Board requested comment on amendments to subparts A, C, and D of Regulation CC.[7] The Board received 40 responses to its proposal from a variety of commenters, including financial institutions, trade associations, clearinghouses, private individuals, and academia. The Board has considered all comments received and has adopted amendments to Regulation CC as described below.[8]

A. Return Requirements

Regulation CC requires a paying bank that determines not to pay a check to return the check expeditiously.[9] Under

[1] Expedited Funds Availability Act, 12 U.S.C. 4001 *et seq.;* Check Clearing for the 21st Century Act, 12 U.S.C. 5001 *et seq.*

[2] EFA Act section 609(b)(4) states that in order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks. 12 U.S.C. 4008(b)(4).

[3] EFA Act section 609(c)(1) states that in order to carry out the provisions of this title, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and any related function of the payment system with respect to checks. 12 U.S.C. 4008(c)(1). EFA Act section 609(c)(2) states that the Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility. 12 U.S.C. 4008(c)(2). EFA Act section 611(f) authorizes the Board to impose on or allocate among depository institutions the risks of loss and liability in connection with any aspect of the payment system, including the receipt, payment, collection, or clearing of checks, and any related function of the payment system with respect to checks. Such liability shall not exceed the amount of the check giving rise to the loss or liability, and, where there is bad faith, other damages, if any, suffered as a proximate consequence of any act or omission giving rise to the loss or liability. 12 U.S.C. 4010(f).

[4] The term ''bank'' as used in this notice and in Regulation CC (12 CFR 229.2(e)) includes a commercial bank, savings bank, savings and loan association, credit union, and a U.S. agency or branch of a foreign bank.

[5] Section 15 of the Check 21 Act states that the Board may prescribe such regulations as the Board determines to be necessary to implement, prevent circumvention or evasion of, or facilitate compliance with the provisions of this Act. 12 U.S.C. 5014.

[6] The Board originally proposed amendments in 2011 (''2011 proposal''). 76 FR 16862 (March 25, 2011). Based on its analysis of the comments received on the 2011 proposal, the Board revised its proposed amendments and requested comment in the proposal in 2014. 79 FR 6674 (Feb. 4, 2014).

[7] The Board is not amending subpart B of Regulation CC at this time. Section 1086 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the EFA Act to make the Board's authority for the EFA Act's provisions implemented in subpart B joint with the Consumer Financial Protection Bureau.

[8] After publication of the Board's proposal, the OCC, Board, and the FDIC began a review of regulations to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions, as required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). The Board has also considered comments related to subparts A, C, and D of Regulation CC received as part of the EGRPRA process.

[9] When Congress enacted the EFA Act in 1987, the time required for delivery of returned paper checks to the depositary bank was often longer than the maximum hold periods to which the banks would be subject under the EFA Act. Many paying banks did not have dedicated transportation infrastructure to return paper checks and would typically send the returned check by mail, which could significantly slow the return process. 52 FR 47112, 47118 (Dec. 11, 1987). To speed the return of checks and to reduce the risk that depositary banks would make funds from a check available before learning of the check's nonpayment, the

the current expeditious return provisions of Regulation CC, a paying bank must return the check as provided under either the ''two-day test'' or the ''forward-collection test.'' [10] Regulation CC permits a paying bank to send a returned check either directly to the depositary bank or to any bank agreeing to handle the return expeditiously.[11] Regulation CC also currently requires a paying bank that determines not to pay a check in the amount of $2,500 or more to provide a notice of nonpayment to the depositary bank such that the notice is received by the depositary bank within the same timeframe as under the ''two-day test'' for expeditious return.[12]

These return requirements were originally implemented when check collection and return was largely paper-based. Now, the interbank clearing process is almost entirely electronic: by the beginning of 2017 the Federal Reserve Banks received over 99.99 percent of checks electronically from 99.06 percent of routing numbers and presented over 99.99 percent of checks electronically to over 99.76 percent of routing numbers. This mostly electronic environment offers lower costs, faster returns, and fewer errors, which substantially reduces risk to the check system compared to the previous largely paper-based environment. A portion of check returns, however, are still conducted using paper: by the beginning of 2017 the Federal Reserve Banks received 99.63 percent of returned checks electronically from over 99.37 percent of routing numbers and delivered 99.41 percent of returned checks electronically but to only 92.84 percent of routing numbers.

In an effort to identify incentives that would encourage the broadest possible implementation of electronic check return for those remaining institutions still using paper, the Board requested comment in its proposal on two alternative approaches to the requirements imposed on paying banks and returning banks. Under the first alternative (''Alternative 1''), the Board proposed to eliminate the expeditious return requirement for paying banks and returning banks.[13] The Board also proposed under Alternative 1 to require the paying bank to provide the depositary bank with a notice of nonpayment when the paying bank sends the returned check in paper form, but not when the paying bank sends the returned check in electronic form.[14] The notice of nonpayment requirement would apply to all paper returned checks regardless of the amount of the check being returned, and the paying bank would be required to deliver the notice to the depositary bank by 2 p.m. on the second business day following presentment of the check to the paying bank (two hours earlier than the current requirement).

Under the second alternative (''Alternative 2''), the Board proposed to eliminate the notice of nonpayment requirement and to preserve the expeditious return requirement with slight modification. Specifically, the Board proposed that paying banks would be subject to a modified expeditious return requirement (using the ''two-day test'') if the paying bank has an agreement to send returned checks electronically either directly to the depositary bank or to a returning bank that is subject to the expeditious return requirement.[15] Returning banks would be subject to requirements similar to those for paying banks under proposed Alternative 2.

Commenters were generally split as to whether the Board should adopt proposed Alternative 1, proposed Alternative 2, or neither of the proposed alternatives.[16] Most commenters, however, expressed support for certain aspects of each proposed alternative. The Board has adopted a final rule that incorporates elements of both proposed Alternative 1 and Alternative 2.

In the final rule, the Board has required all returned checks, both paper and electronic, to satisfy a modified version of the ''two-day test,'' meaning that they must be returned in an expeditious manner, such that the check would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank. The Board also has added a new condition for expeditious-return liability, specifically that a paying bank and returning bank may be liable to a depositary bank for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying bank or returning bank could return a returned check electronically, directly or indirectly, by commercially reasonable

Board in Regulation CC exercised its authority under sections 609(b) and (c) the EFA Act to automate the return process and to establish the expeditious return requirement. 53 FR 19372, 19377 (May 27, 1988).

[10] Under the two-day test, a paying bank must send a returned check such that the check would normally be received by the depositary bank not later than 4 p.m. local time of the depositary bank on the second business day following the banking day on which the check was presented to the paying bank. 12 CFR 229.30(a)(1)(i). Under the forward-collection test, a paying bank must send the returned check in a manner that a similarly situated bank would send a check (i) of similar amount as the returned check, (ii) drawn on the depositary bank, and (iii) deposited for forward collection in the similarly situated bank by noon on the banking day following the banking day on which the check was presented to the paying bank. 12 CFR 229.30(a)(2).

For nonlocal checks, there is a four-day test under which a paying bank must send a returned check such that the check would normally be received by the depositary bank not later than 4 p.m. local time of the depositary bank on the fourth business day following the banking day on which the check was presented to the paying bank. 12 CFR 229.30(a)(1)(ii). Because there is now only one Federal Reserve Bank check processing region, there are no longer any nonlocal checks, and the four-day test applies to a null set of checks.

[11] 12 CFR 229.30(a).

[12] Return of the check itself satisfies the notice of nonpayment requirement if the return meets the timeframe requirement for a notice of nonpayment.

[13] The Board believed that the approach in Alternative 1 would provide incentives to depositary banks to accept electronic returns. Under this alternative, depositary banks that do not currently accept electronic returns would have a greater incentive to do so because only by receiving returns electronically would they be likely to learn about nonpayment of a deposited check before making funds available to their customers. Alternative 1 was based on the Board's belief that in today's virtually all-electronic check-processing environment, a check returned electronically through the entire return path should be received by the depositary bank within two business days of the check's presentment to the paying bank without an expeditious return requirement, assuming returning banks do not change processing timeframes.

[14] Retaining a notice of nonpayment requirement only for paper returned checks in Alternative 1 would have provided paying banks with an incentive to send returned checks electronically (in order to avoid having to comply with the notice of nonpayment requirement) and ensure that depositary banks receive timely notice of returned checks (because they would generally receive either the electronic return or a notice of nonpayment within the two-day timeframe).

[15] Under Alternative 2, depositary banks that do not currently accept electronic returns would have a greater incentive to do so because they would not otherwise be entitled to expeditious return of unpaid checks and would therefore be at a greater risk of having to make funds available to their customers before learning that the deposited check was returned unpaid.

[16] Commenters that preferred Alternative 1 emphasized that it had the least financial, technology, and potential liability impact on financial institutions. Commenters that opposed Alternative 1 stated that it did not provide sufficient incentives for depository institutions to accept electronic returns and could result in slower return of checks. Furthermore, these commenters noted that Alternative 1 placed an increased risk on depositary banks that may receive electronic returns outside of the two-day window. Commenters that preferred Alternative 2 reasoned that it provided greater incentives than Alternative 1 for depository institutions to accept electronic returns. Commenters against Alternative 2 stated that it was difficult for a paying bank to know whether it had agreements in place that would allow it to send returned checks electronically indirectly to a particular depositary bank. The commenters that preferred neither alternative stated that a significant number of smaller financial institutions still relied on paper returns and would incur costs to shift to electronic returns and generally have fewer resources to manage the increased risk and exposure from potentially slower paper returns.

means. The depositary bank has the burden of proof for demonstrating that its arrangements for accepting returned checks electronically are commercially reasonable. The Board believes that this approach will provide incentives to depositary banks to receive electronic returns so that they preserve their ability to make a claim that a check was not returned expeditiously.[17] The final rule also provides that if a paying bank determines not to pay a check in the amount of $5,000 or more (rather than the current $2,500 threshold), it must provide a notice of nonpayment such that the notice would normally be received by the depositary bank by 2 p.m. (rather than the current deadline of 4 p.m.) on the second business day following the banking day on which the check was presented to the paying bank.

B. Same-Day Settlement

Section 229.36(f) of Regulation CC currently requires a paying bank to provide same-day settlement for checks presented in accordance with reasonable delivery requirements established by the paying bank and presented at a location designated by the paying bank by 8 a.m. (local time of the paying bank) on a business day.[18] A paying bank may not charge presentment fees for checks—for example, by settling for less than the full amount of the checks—that are presented in accordance with same-day settlement requirements.

In its proposal, the Board proposed to retain, without substantive change, Regulation CC's current same-day settlement rule because the Board believed that the terms of electronic presentment should be determined by agreement between banks. Most commenters agreed with Board's proposal, stating that the terms of electronic presentment are already effectively governed by agreements between banks such that an electronic same-day-settlement rule would be unnecessary or even burdensome. Some commenters also believed that the Board should eliminate the paper same-day-settlement rule entirely, as the original rationale for its implementation is no longer relevant given today's almost all-electronic check-presentment environment. Although the Board agrees that the terms of electronic presentment should be appropriately determined by agreement between banks, the Board believes that the existence of the paper same-day-settlement rule can be a valuable incentive for banks to negotiate electronic same-day settlement agreements. Consistent with the majority of comments received, the Board in its final rule retains the current same-day settlement rule, with only minor technical changes.[19]

C. Framework for Electronic Check Collection and Return

Regulation CC, subpart C currently applies only to paper checks. Thus, the provisions of subpart C related to acceptance of returned checks, presentment, and warranties do not apply to electronic images of checks (''electronic images'') or to electronic information derived from checks (''electronic information'').[20] Rather, the collection and return of electronic images and electronic information are governed by agreements between the banks. These agreements may be in the form of the Federal Reserve Banks' operating circular or a clearinghouse agreement.[21] The agreements often include, among other terms, warranties for electronic checks similar to those made for substitute checks under the Check 21 Act (''Check-21-like warranties'').[22]

The Board proposed amendments to subpart C that would create a regulatory framework for the collection and return of electronic images and electronic information. The Board proposed to define the terms ''electronic check'' and ''electronic returned check'' as an electronic image or electronic information related to a check or returned check. The Board also proposed to apply the provisions of subpart C to banks that send and receive these items by agreement as if they were checks, unless otherwise agreed by the sending and receiving banks.[23] The majority of commenters agreed with the Board's proposed definition of electronic check and electronic returned check and its proposal to apply the provisions of subpart C to these items as if they were checks.[24] Therefore, the Board has adopted the proposal as its final rule with clarifying changes so that ''electronic check'' and ''electronic returned check'' are now defined as an electronic image *and* electronic information *derived from* a check or returned check, for the reasons discussed in detail below in the section-by-section analysis.

The Board also proposed to apply existing paper-check warranties and the Check-21-like warranties to electronic checks and electronic returned checks.[25] The existing paper-check warranties include the returned-check warranties; the notice of nonpayment warranties; the settlement amount, encoding, and offset warranties; and the transfer and presentment warranties related to a remotely-created check. The Check-21-like warranties include warranties that a bank will not be asked to pay an item twice and that the electronic image and electronic information are sufficient to create a substitute check. These warranties ensure that a bank that receives a check for collection, presentment, or return receives the same warranties regardless of whether the check is in paper or electronic form. Commenters generally agreed with the proposal, and the Board believes that extending the warranties is important to create adequate protections. In the final rule, the Board has applied the existing paper-check warranties and the Check-21-like warranties to electronic checks and electronic returned checks as proposed.

The Board proposed to add new indemnities for electronically-created items, which are check-like items created in electronic form that never existed in paper form. Electronically-

[17] The Board believes that paying banks will have an incentive to send returns electronically because electronic returns are more likely meet the requirements of the ''two-day test'' than paper returns. The Board also believes that there are only minimal risks of paying banks attempting to evade the expeditious return requirements (and avoid liability) by refusing to enter into agreements to send electronic returns. Most paying banks already have in place agreements to return checks electronically and use entirely electronic return processes. Smaller paying banks that may not have in place electronic return arrangements typically use the Federal Reserve Banks' check return service, which enables those banks to return checks indirectly to the depositary bank electronically, thereby subjecting those paying banks or the Federal Reserve Banks to liability for failure to return a check expeditiously under the final rule.

[18] The Board established the same-day settlement rule, which became effective in 1994, to reduce the competitive disparity between the Federal Reserve Banks and other presenting banks and to balance the bargaining power between presenting banks and paying banks more equitably.

[19] The Board proposed minor technical changes to reflect the existence of a single check processing region nationwide.

[20] Current § 229.2(k) generally follows the definition of ''check'' from the EFA Act and does not include an electronic images or electronic information within the definition of ''check.''

[21] With respect to checks and returned checks handled by the Federal Reserve Banks, Regulation J (12 CFR part 210) provides protections to banks receiving electronic items from a prior bank. Clearinghouse rules also typically include such protection.

[22] That is, warranties that a bank will not be asked to pay an item twice and that the electronic image and electronic information are sufficient to create a substitute check.

[23] Pursuant to existing § 229.37 of subpart C, the parties could, by agreement, vary the effect of the provisions of subpart C as they apply to electronic checks and electronic returned checks.

[24] As defined in the final rule, whether the sending bank and the receiving bank have an agreement to send the item electronically determines if an item qualified as an ''electronic check'' or an ''electronic returned check.''

[25] Specifically, the Board proposed to apply the paper-check warranties in current § 229.34 to electronic checks and electronic returned checks.

created items can be difficult to distinguish from electronic images of paper checks. The Board proposed that a bank transferring an image or information that is *not* derived from a paper check (*i.e.,* an electronically-created item) indemnifies each transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank against any loss, claim, or damage that results from the fact that the image or information was not derived from a paper check. The Board also proposed limiting the amount of the indemnity so that it would not exceed the amount of the loss of the indemnified bank, up to the amount of settlement or other consideration received by the indemnifying bank and interest and expenses of the indemnified bank (including costs and reasonable attorney's fees and other expenses of representation). Commenters generally agreed that the Board in its final rule should provide some sort of protection for the handling of electronically-created items, but there was no consensus about whether the Board's proposed indemnities or an alternative, such as warranties, was most appropriate. Some of these commenters supported applying protections to receivers of electronically-created items similar to those for checks or substitute checks.

The Board has adopted in the final rule the indemnities for electronically-created items as proposed, and in response to comments received, new indemnities for losses caused by the fact that (1) the electronically-created item was not authorized by the account holder and (2) a subsequent bank pays an item that has already been paid.[26] The Board believes that these indemnities will provide basic protections for banks handling electronically-created items that are unauthorized or presented more than once. In the final rule, the Board also defines ''electronically-created item'' to mean an electronic image that has all the attributes of an electronic check or electronic returned check but was created electronically and not from a paper check.

Finally, the Board proposed to add a new indemnity for remote deposit capture that would indemnify a depositary bank that received a deposit of an original paper check that was returned unpaid because the check was previously deposited using a remote deposit capture service and paid. Commenters expressed concern that as proposed, the indemnity would deter financial institutions from offering remote deposit capture service, thereby inhibiting its growth. Many of these commenters believed that the indemnity should not apply to checks bearing a restrictive indorsement.

The Board believes that the indemnity places appropriate incentives on the parties best positioned to prevent multiple deposits of the same item and has adopted the proposed indemnity. Based on comments received, the Board has added an exception to the indemnity that would prevent an indemnified bank from making an indemnity claim if it accepted an original check containing a restrictive indorsement that is inconsistent with the means of deposit, such as ''for mobile deposit only.''

D. Effective Date

The Board proposed a six month effective date following publication of the final rule and requested comment on whether it was sufficient. The Board received 17 comments regarding the proposed effective date. Four commenters agreed that a six month effective date was sufficient. Twelve commenters requested a 12 month effective date and stated that a longer effective date will allow financial institutions to make the necessary technology, policy, and consumer disclosure changes. One commenter requested an 18–24 month effective date. The Board has adopted an effective date of July 1, 2018. The Board believes that this time period will allow financial institutions to adjust their systems to comply with the final rule.

E. Additional Aspects of the Proposal

The Board also proposed several other minor amendments to subparts A, C, and D, and the accompanying commentary. The Board's proposed revisions, the comments the Board received, and the Board's final rule are described in additional detail in the section-by-section analysis.

F. Consultation With Other Agencies

As directed by section 609(e) of the EFA Act, the Board consulted with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board during the rulemaking process.[27]

III. Legal Authority

In issuing the final rule, the Board is exercising its authority under sections 609(b) and (c) and 611(f) of the EFA Act and section 15 of the Check 21 Act to amend subparts C and D, and, in connection therewith, subpart A, of Regulation CC to provide incentives for depositary banks to receive, and paying banks to send, returned checks electronically and to allocate liability among depository institutions related to check collection and return.

IV. Section-by-Section Analysis

The paragraph citations in this section are to the paragraphs of the final rule unless otherwise stated.[28]

A. General

1. § 229.1(b)—Authority and Purpose; Organization

Regulation CC currently describes the scope and purpose of subparts A through D in § 229.1(b). The Board proposed to add similar descriptions for each of Regulation CC's appendices. The Board did not receive comments on proposed § 229.1(b). The Board has adopted § 229.1(b) as proposed, with additional technical amendments to reflect the adoption of § 229.30(a), discussed below.

B. Definitions

1. Section 229.2(z)—Paying Bank

The current commentary to § 229.2(z) explains that for purposes of subparts C and D, paying bank includes the bank through which a check is payable and to which the check is sent for payment or collection, regardless of whether the check is payable by another bank. The Board proposed to eliminate outdated cross-references in paragraph 2 of the commentary and make other editorial changes. The Board did not receive any comments on the proposed commentary to § 229.2(z) and has adopted it as proposed with minor technical changes for clarity.

2. Section 229.2(dd)—Routing Number

Regulation CC currently defines the term ''routing number'' as the number printed on the face of the check or the number in the bank's indorsement. The Board proposed revising the definition of ''routing number'' for purposes of subpart C and subpart D to include a bank-identification number contained in an electronic image or electronic information. The Board also proposed revising the commentary to the

[26] Each bank that transfers or presents an electronically-created item and receives a settlement or other consideration indemnifies each transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank.

[27] 12 U.S.C. 4008(e).

[28] Where the Board has renumbered a section, the Board has made corresponding corrections to cross-references in other sections of the final rule-text.

definition of ''routing number'' to address electronic checks and to clarify that, in the case of payable-through checks, the routing number appearing on the check is that of the payable-through bank.

Two commenters requested that the Board distinguish between active routing numbers and those that are retired or never issued. One commenter requested that the Board provide clear authority to collecting banks to return or reject routing numbers that are listed as retired.

In the final rule, the Board has defined ''routing number'' as proposed, except that the terms ''electronic check and electronic returned check'' are used instead of ''electronic image of or electronic information derived from a check'' because the former terms are now defined.[29] With respect to the comments on retired routing numbers, Regulation CC does not affect a collecting bank's ability to accept or reject a check for collection. For example, in 2015 the Federal Reserve Banks revised Operating Circular 3, governing their check service, to provide that the Federal Reserve Banks will not handle checks drawn on routing numbers that have been retired by the American Bankers Association's Registrar of Routing Numbers.

3. Section 229.2(uu)—Indemnifying Bank

In connection with the new indemnity the Board proposed for ''electronic image or electronic information not related to a paper check'' and the newly defined term ''electronically-created item,'' the Board has revised § 229.2(uu) to clarify that the term ''indemnifying bank'' means a bank that provides an indemnity under § 229.53 with respect to a substitute check or a bank that provides an indemnity under § 229.34 with respect to remote deposit capture or an electronically-created item.

4. Section 229.2(vv)—MICR Line

Regulation CC currently defines ''MICR line'' as the numbers printed near the bottom of a check in magnetic ink, in accordance with American National Standard (ANS) Specifications for Placement and Location of MICR Printing, X9.13 for an original check and ANS Specifications for an Image Replacement Document–IRD, X9.100–140 for a substitute check, unless the Board by rule or order determines that different standards apply.

The Board proposed to amend the definition of ''MICR line'' for purposes of subpart C and subpart D so that it also includes the numbers contained in an electronic image of and electronic information related to the check in accordance with ANS Specifications for Electronic Exchange of Check Image Data–Domestic, X9.100–187, unless the Board determines by rule or order that different standards apply. The Board proposed to revise the commentary to the definition of ''MICR line'' to state that the banks exchanging the electronic check may determine the applicable standard for electronic checks and electronic returned checks. The Board requested comment on whether the ''MICR line'' definition should specify an industry standard at all, given that the exchange of electronic items between banks is by agreement.

One Federal Reserve Bank commenter stated that electronic items and electronic returned items do not have a MICR line per se, but rather the MICR-line information is contained in the data records that accompany the image. The commenter suggested that the Board expand the proposed definition to include data contained in those records, as specified in the industry standard. The commenter also stated that the Board should tie the definition to generally accepted industry standards rather than using the currently prevailing standards so that the Board would not have to use a notice and comment process to move from one iteration of the standard to the successor version. One commenter also proposed creating an identifier for a remotely captured check in the MICR line.

In the final rule's definition of ''MICR line,'' the Board has incorporated the data records that accompany the image, as specified for MICR line data in the industry standard. The final rule, like the proposed rule, ties the ''MICR line'' definition to the specified standard. The Board does not believe that tying the definition to generally accepted industry standards provides sufficient clarity for the parties involved and believes that tying the definition to the specified standard is more appropriate to provide banks with certainty. Banks can vary this rule by agreement to accept a future standard or an alternate specification. If industry standards are revised in the future, the Board will consider updating the references to these standards.

5. Section 229.2(bbb)—Copy and Sufficient Copy

The terms ''copy'' and ''sufficient copy'' were added to Regulation CC in 2004 in connection with the adoption of the final rule implementing the Check 21 Act.[30] The term ''copy'' is used throughout subpart C (for example, in connection with the notice in lieu of return provisions) and the definition is limited to paper reproductions of checks.

The Board proposed to expand the current definition of ''copy'' to include an electronic reproduction of a check that a recipient has agreed to receive from the sender instead of receiving a paper reproduction.

Regulation CC currently defines a ''sufficient copy'' as a copy of an original check that accurately represents all of the information on the front and back of the original check as of the time the original check was truncated or is otherwise sufficient to determine whether or not a claim (such as an indemnity claim or an expedited recredit claim) is valid.

The Board did not propose to revise the current definitions of ''copy'' or ''sufficient copy.'' The Board, however, proposed to clarify the current commentary to the definition to clarify that a ''sufficient copy,'' which is used to resolve claims related to the receipt of a substitute check, must be a copy of the original check (and not of the substitute check). The Board received one comment supporting the proposal and no opposing comments. The Board has adopted proposed § 229.2(bbb) and the related commentary as proposed.

6. Section 229.2(fff)—Remotely Created Check

Regulation CC currently defines a ''remotely created check'' as a check that is not created by the paying bank and that does not bear a signature applied, or purported to be applied, by the person on whose account the check is drawn. Regulation CC places liability for unauthorized remotely created checks on the depositary bank.[31]

The Board requested comment on whether it should narrow the scope of the definition of ''remotely created check'' to include only checks created by the payee (or payee's agent), as opposed to the current definition's scope of checks ''not created by the paying bank.'' [32] The Board also requested comment on (1) the extent to which depositary banks are receiving warranty claims related to checks that were not created by their customers or agents, (2) the extent to which paying

[29] Although the term ''routing number'' is used in subpart B, amendments to subpart B must be joint with the CFPB. Accordingly, the amendments apply only for purposes of subparts C and D.

[30] 69 FR 47290, 47309 (Aug. 4, 2004).

[31] See § 229.34(b) of the final rule, formerly § 229.34(d).

[32] Such a change would exclude, for example, checks created by the account-holder independently or through a bill-paying service (other than a service offered by the paying bank).

banks may be inadvertently making warranty claims for items that had been created by the paying bank, and thus were not covered by the definition of ''remotely created check,'' and (3) what the substance of the warranties should be were the Board to narrow the definition of ''remotely created check.'' In addition, the Board requested comment on whether the Board should revise the definition of ''remotely created check'' to include items bearing ''signatures'' that were obtained electronically from the drawer and resemble the drawer's handwritten signature.

Six commenters, including a comment letter submitted by a group of institutions and trade associations (''group letter''), addressed remotely created checks. Two commenters stated that the Board should not narrow the definition of remotely created check. One of these commenters stated that there is no discernable difference between remotely created checks created by payees and paying banks and that narrowing the definition of a remotely created check would lead to confusion in the handling of these items. Four commenters, including the group letter, suggested that the Board narrow the definition to include only checks created by the payee or payee's agent. These commenters stated that because the warranty shifts loss from the paying bank to the depositary bank, the warranty should apply only in situations where the payee or payee's agent created the check. The commenters stated that in situations where the account-holder instructs its own bill-paying agent to create the check, the depositary bank should not be held liable if the account-holder later claims such check was not authorized.

The Board did not receive any comments on the extent to which depositary banks are receiving remotely created check warranty claims related to checks that were not created by the depositary banks' customers or their agents. The Board did not receive any comments on whether it should revise the definition of remotely created check to include items bearing ''signatures'' that were obtained electronically from the drawer and resemble the drawer's handwritten signature.

In the final rule, the Board has not modified the definition of remotely created checks. Under the current definition, in order to assert a warranty claim, the parties to a check do not have to distinguish between checks that are created by the payee or its agent from other checks, such as checks created by a customer's bill-payment service. In the absence of any evidence that the warranty has been broadly asserted on checks created by account-holders, the Board continues to believe that this definition is operationally efficient for paying banks because they more easily can determine whether the warranty applies to a particular check.

7. Section 229.2(ggg)—Electronic Check and Electronic Returned Check

The current definition of ''check'' in Regulation CC does not include electronic images and electronic information. The Board proposed the addition of § 229.2(ggg) setting forth two new defined terms, ''electronic check'' and ''electronic returned check.'' The proposal defined ''electronic check'' and ''electronic returned check'' as (1) an electronic image of a check, or returned check, or electronic information related to a check, or returned check, respectively, that a bank or a nonbank depositor sends to a receiving bank pursuant to an agreement with the receiving bank, and (2) that conforms with ANS Specifications for Electronic Exchange of Check Image Data—Domestic, X9.100—187, unless the Board determines that a different standard applies or the parties otherwise agree. The proposal permitted the sending and receiving banks to agree that an ''electronic check'' or an ''electronic returned check'' need not contain both an electronic image and electronic information. Under the proposal, an item could be an ''electronic check'' or ''electronic returned check,'' even if it is not sufficient to create a substitute check, but the sending bank would warrant that such items are sufficient to create substitute checks, unless otherwise agreed.[33]

The proposed commentary to § 229.2(ggg) clarified that the terms of the agreements for sending and receiving electronic checks and returned checks may vary. For example, banks may agree that both an electronic image and electronic information must be provided for presentment, or they may agree that the electronic information alone is sufficient for presentment. Additionally, the agreements may differ as to what constitutes receipt of an electronic check or electronic returned check.

One commenter suggested that the Board define an ''electronic check'' and an ''electronic returned check'' so that the electronic record would be effectively equivalent to a check only if the electronic record includes an image *and* data from the paper check, rather than the proposed definition specifying image *or* data. The commenter emphasized the importance of both image and data, especially in complex use cases, such as instances in which the check names multiple payees that each must indorse the check before it can be properly negotiated.

To address the concerns raised by this commenter, the Board in the final rule has defined ''electronic check'' and ''electronic returned check'' to mean ''an electronic image of, and electronic information derived from, a paper check or paper returned check.'' The Board has also revised its proposed definition to refer to electronic information ''derived from'' (rather than ''related to'') a paper check or paper returned check. This revision addresses another commenter's concern that electronic check and electronic returned check (which are derived from paper checks) may be read to apply to electronically-created items (which are not derived from paper checks). The Board has also revised its proposed definition to refer to electronic information derived from a *paper* check or *paper* returned check, as the term ''check'' in subpart C includes electronic checks and electronic returned checks unless otherwise specified, pursuant to section 229.30.

8. Section 229.2(hhh)—Electronically-Created Item

The Board proposed a new indemnity for an ''electronic image or electronic information not related to a paper check'' in proposed § 229.34(b). One commenter suggested that the Board consider formally defining an electronically-created item. In the final rule, the Board has adopted in § 229.2(hhh) a newly defined term, ''electronically-created item,'' to refer to the items covered by the new indemnity. The Board has also adopted accompanying commentary. The Board has defined this term to mean ''an electronic image that has all the attributes of an electronic check or electronic returned check but was created electronically and not derived from a paper check.''

C. Subpart C—Collection of Checks

The Board proposed two alternative approaches to the requirements that apply to the return of checks, which are outlined above. Also as explained above, the Board has adopted a final rule that incorporates elements of both proposed Alternative 1 and Alternative 2. Under the final rule, all returned checks, both paper and electronic, are subject to a modified version of the ''two-day test,'' meaning that they must be returned in an expeditious manner, such that the check would normally be

[33] See § 229.34(a).

received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank. The Board also added a new section that prevents a depositary bank from asserting a claim against a paying bank or returning bank for failure to return a check in an expeditious manner unless the depositary bank has arrangements in place such that the paying bank or returning bank could return the check to the depositary bank electronically, directly or indirectly, through commercially reasonable means. The depositary bank has the burden of proof for demonstrating that its arrangements for accepting returned checks electronically are commercially reasonable. In addition, if a paying bank determines not to pay a check in the amount of $5,000 or more, it must provide a notice of nonpayment such that the notice would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank.

1. Section 229.30—Electronic Checks and Electronic Information

a. Section 229.30(a)—Checks Under This Subpart

The Board proposed that electronic checks and electronic returned checks be subject to the provisions of subpart C as if they were checks or returned checks, unless the subpart provides otherwise. The Board noted in proposed commentary to § 229.30(a) that § 229.37 permits banks to vary by agreement the effect of the provisions in subpart C as they apply to electronic checks and electronic returned checks.

The Board received 14 comments on proposed § 229.30(a). Eight commenters generally supported the Board's proposal to apply the terms of subpart C to ''electronic checks'' and ''electronic returned checks'' as if they were checks, unless otherwise agreed by the sending and receiving banks. Five commenters expressed concerns that this could result in increased risks to banks because electronic checks and electronic returned checks are currently governed by agreements between banks and that the Board should address and limit any increased risks. One commenter suggested that the Board specify the provisions that the sending banks and receiving banks may vary by agreement to avoid confusion. The commenter also suggested that the Board set a ceiling on a dollar amount of checks that could be electronically returned so that all parties know the level of risk they would be assuming by accepting electronic returns.

Given that electronic checks and electronic returned checks are currently governed by agreements between banks, the Board believes that the commentary and rule text as proposed provide sufficient clarity as to the ability of banks to vary by agreement the effect of the provisions in subpart C as they apply to electronic checks and electronic returned checks to address and limit any perceived risks. The Board has not set a ceiling on the dollar amount of checks that could be electronically returned, as the Board believes that banks are in the best position to determine their risk tolerance. The Board has adopted § 229.30(a) and provided clarification by replacing ''unless otherwise provided'' with ''except where 'paper check' or 'paper returned check' is specified.'' The Board has also provided additional examples of the application of § 229.30(a) in the commentary and clarified that where ''check'' or ''returned check'' is used in subpart A it includes also ''electronic check'' or ''electronic returned check'' for the purposes of subpart C, except where ''paper check'' or ''paper returned check'' is specified.

b. Section 229.30(b)—Writings

In proposed § 229.30(b), the Board would permit, under certain circumstances, a bank required to provide information in writing or in written form under subpart C to satisfy that requirement by providing that information in electronic form. Specifically, the receiving bank would have to agree to receive that information electronically from the sending bank. In proposed commentary to § 229.30(b), the Board provided as an example that a bank could send a notice in lieu of return electronically if the receiving bank agreed to receive the notice electronically. The Board did not receive any comments on proposed § 229.30(b) and has adopted it as proposed with minor technical edits.

2. Section 229.31—Paying Bank's Responsibility for Return of Checks and Notices of Nonpayment

a. Section 229.31(a) and (b)—Return of Checks and Expeditious Return of Checks

Current § 229.30(a) provides that a paying bank must return a check in an expeditious manner (as measured by either the two-day/four-day test or the forward-collection test) and that a paying bank may send a returned check to the depositary bank or to any other bank agreeing to handle the returned check expeditiously. It also provides that a paying bank may convert a check to a qualified returned check (and sets forth format standards for qualified returned checks) and that the expeditious return requirements do not affect a paying bank's responsibility to return a check within the deadlines required by the UCC, Regulation J, or current § 229.30(c).

Current § 229.30(b) provides that a paying bank unable to identify the depositary bank may send the returned check to any bank that handled the check for forward collection even if that bank does not agree to handle the check expeditiously under current § 229.31(a). The paying bank must advise the bank to which the check is sent that the paying bank is unable to identify the depositary bank. The expeditious return requirements of current § 229.30(a) do not apply to the paying bank's return of a check when the paying bank is unable to identify the depositary bank.

The Board proposed two alternative approaches to revising these provisions. With Alternative 1, the Board proposed elimination of the expeditious return requirement imposed on a paying bank. Accordingly, the Board proposed to remove the provisions setting forth the two-day/four-day test and the forward-collection test, as well as to remove all references to expeditious return from the regulation and the commentary.

Alternative 2 would retain an expeditious return requirement consistent with a two-day test, such that the check would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank. Alternative 2 would move the cutoff hour for receipt of a returned check from 4 p.m. to 2 p.m. (local time of the depositary bank), consistent with similar changes elsewhere in the proposal. In addition, Alternative 2 would modify the existing rule by providing that, where the second business day following presentment is not a banking day for the depositary bank, the paying bank satisfies the expeditious return requirement if it sends the returned check in a manner such that the depositary bank would *normally* receive the returned check on or before the depositary bank's next banking day. (Proposed new language italicized.)

Both Alternatives 1 and 2 would have retained the existing provisions permitting a paying bank that is

returning a check to send the returned check directly to the depositary bank, to any other bank agreeing to handle the returned check, or to any bank that handled the check for forward collection when the paying bank is unable to identify the depositary bank. In Alternative 2, however, a paying bank's choice of return path would be subject to the requirement for expeditious return.

In addition, under both alternatives, the Board proposed to revise the commentary to the provision on handling checks where the depositary bank is not identifiable. The proposed new commentary would provide an example related to a check presented electronically, stating that a paying bank would be unable to identify the depositary bank if the depositary bank's indorsement is neither in an addenda record nor within the image of the check that was presented electronically.[34] A paying bank, however, would not be ''unable'' to identify the depositary bank merely because the depositary bank's indorsement is available within the image, and the paying bank must retrieve and visually review the image, rather than attached as an addenda record. Like the current commentary, the proposed commentary for both alternatives would have required a paying bank returning a check to a prior collecting bank because it is unable to identify the depositary bank to advise the prior collecting bank of this fact. The Board noted in the proposed commentary that, in the case of an electronic returned check, the advice requirement may have been satisfied in such a manner as the parties agree.

Under both alternatives, the Board would have preserved the ability of a paying bank to convert a check into a qualified returned check and the format standards for doing so as well as the statement that the section does not affect a paying bank's responsibility to return a check within the deadlines required by the UCC, Regulation J, or proposed § 229.31(g), relating to the midnight deadline extension.

Seven commenters preferred Alternative 1 (elimination of the expeditious return requirement), 10 commenters, including the group letter, preferred Alternative 2 (maintaining the two-day test for expeditious-return), and eight commenters preferred neither. Commenters that supported Alternative 1 believed that the option had the least financial and operational effect on depository institutions. Commenters that supported Alternative 2 expressed doubt as to whether Alternative 1, which would eliminate the expeditious return requirement, would provide sufficient incentives for depository institutions to accept electronic returns. The commenters that preferred neither alternative stated that a significant number of smaller depository institutions still relied on paper returns. Some commenters suggested that the Board retain the forward-collection test in addition to the two-day expeditious return requirement, as it would facilitate paying bank compliance when there is uncertainty regarding how the paying bank's returning banks can handle a particular return item.

After considering the comments, the Board has adopted proposed Alternative 2's two-day expeditious return rule requirement for § 229.31(a) and (b).[35] As described in more detail in Section II above, the Board believes that maintaining the two-day test for expeditious-return, along with the other return requirements, offers the appropriate incentives for banks to accept electronic returns.

The Board did not receive comments on the other aspects of the return process in Alternative 2 for proposed § 229.31(a) (dealing with routing of returned checks and creation of qualified returned checks) or the corresponding commentary. Consistent with maintaining an expeditious return requirement, the Board has adopted those provisions with minor technical changes for clarity. The Board has also adopted the specific requirements for expeditious return by a paying bank as set forth in Alternative 2 for proposed § 229.31(b),with minor technical changes for clarity and revisions to align the commentary with the Board's final amendments to § 229.33(a).

b. Section 229.31(c)—Notice of Nonpayment

Notice of nonpayment requirement (§ 229.31(c)(1)). Current section 229.33(a) of Regulation CC requires that, if a paying bank determines not to pay a check in the amount of $2,500 or more, it must provide notice of nonpayment such that the notice is received by the depositary bank by 4 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank. The notice may be provided by any reasonable means, including the returned check, a writing (including a copy of the check), telephone, Fedwire, telex, or other form of telegraph. Current commentary to § 229.33(a) explains that the return of the check itself may serve as the notice, so long as the returned check would be received by the depositary bank within the time limits for the notice. The commentary further explains that in determining whether the returned check will satisfy the notice requirement, the paying bank may rely on the availability schedules of returning banks as the time that the returned check is expected to be delivered to the depositary bank, unless the paying bank has reason to know the availability schedules are inaccurate.

The Board proposed two alternative approaches to revise this provision. Proposed Alternative 1 would have retained a notice of nonpayment requirement, but only if the paying bank sent the returned check in paper form. The notice of nonpayment requirement, however, would apply regardless of the dollar amount of the check being returned. Under Alternative 1, the Board proposed to move the deadline by which a notice of nonpayment must be received by the depositary bank from 4 p.m. to 2 p.m. (local time of the depositary bank) on the second business day following the banking day of presentment. The proposed 2 p.m. deadline would be consistent with banks' generally applicable cutoff hour for receipt of checks under section 4–108 of the UCC, after which a bank may consider an item to be received on its next banking day. Alternative 1 would eliminate the statement in the commentary to current § 229.33(a) that the paying bank may rely on the availability schedules of returning banks as the time that the returned check is expected to be delivered to the depositary bank. That statement was inconsistent with the regulatory text providing for a fixed deadline for the depositary bank's receipt of notice of nonpayment. Furthermore, the Board proposed in Alternative 1 to delete references to Fedwire, telex, or other form of telegraph, although the use of these means of providing notice would nonetheless remain acceptable. Proposed Alternative 2 would have eliminated the notice of nonpayment requirement.

Most commenters supported Alternative 1, which would have retained the notice of nonpayment, whether or not they supported retention of the expeditious return requirement.

[34] The Board expects that these cases will be unusual as depositary banks generally apply their indorsements electronically.

[35] As discussed in greater detail below, under § 229.33(a)(1) of the final rule, a paying bank or returning bank may be liable to a depositary bank under § 229.38 for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying bank or returning bank could return a returned check to the depositary bank electronically, directly or indirectly, by commercially reasonable means.

Numerous commenters suggested increasing the threshold for the notice of nonpayment, such as to $5,000 or $10,000. Several commenters, including the group letter, suggested that there may still be a need to maintain a requirement for high-dollar item notification of non-payment for all items—both paper and electronic—to protect the depositary banks from a loss in high-dollar item situations.

One commenter, the group letter, did not support the requirement that the depositary bank receive the notice of nonpayment by 2 p.m. The group letter stated that the paying bank often relies on a third-party service provider to assist with the delivery of notices of nonpayment, and should be able to rely on the third party's availability schedule that establishes when the notice of nonpayment will be received by the depositary bank.

The Board has adopted in § 229.31(c)(1) and its accompanying commentary Alternative 1 of the proposal and the proposed accompanying commentary with modifications. The Board agrees with commenters that notice of nonpayment requirements will reduce risks to depositary banks for all returned items, and therefore the notice requirement adopted by the Board applies regardless of whether the paying bank sends a paper or electronic return. The Board believes that paying banks will have incentives to send returns electronically in order to avoid the likelihood that they would fail to meet their expeditious return obligations using paper returns, as described below.

The Board has also increased the threshold for notice from $2,500 to $5,000. The Board has also revised the notice of nonpayment requirement to require a paying bank to provide notice to the depositary bank such that the notice ''would normally be received'' by 2 p.m. The commentary also clarifies that a paying bank may rely on the availability schedule of a third party that provides the notices of nonpayment on its behalf. This approach parallels that of the expeditious return requirement.

Content of notices (§ 229.31(c)(2)). Section 229.33(b) currently requires a paying bank to include the following information in a notice of nonpayment: (1) Name and routing number of the paying bank; (2) name of the payee(s); (3) amount of the check being returned; (4) date of the indorsement of the depositary bank; (5) account number of the customer(s) of the depositary bank; (6) branch name or number of the depositary bank from its indorsement; (7) trace number associated with the indorsement of the depositary bank; and (8) reason for nonpayment.

The Board offered two alternative approaches to revise this provision. Proposed Alternative 1 would have required the paying bank to include the specified information in a notice of nonpayment only to the extent it is available to the paying bank. In addition, the Board proposed in Alternative 1 that the notice include, to the extent available to the paying bank, the information contained in the check's MICR line when the check is received by the paying bank. The check's MICR line would typically include the account number of the paying bank's customer, the check's serial number, and, if the check is a corporate-sized check, the auxiliary-on-us field. In Alternative 1, the Board also proposed that the notices include essentially all the other information required in current § 229.33(b), to the extent available to the paying bank.[36] In addition, Alternative 1 proposed retention of the statement in current § 229.33(b) that, if the paying bank is not sure of the accuracy of an item of information, it shall include the required information to the extent possible and identify any item of information for which the bank is not sure of the accuracy.

Proposed Alternative 2 would have eliminated the requirement of the notice of nonpayment.

The Board received one comment, the group letter, on the content of the notice of nonpayment. The group letter supported inclusion of MICR line information as a data element in the notice. However, the group letter recommended elimination of the requirement to include the account number of the depositing customer and the branch name or number of the depositary bank from its indorsement. The group letter stated that a depositary bank would rely solely on its own check processing or deposit account system for this information. The group letter also suggested elimination of the requirement to include the name of the paying bank because the depositary bank should rely on the identity of the paying bank that is associated with the MICR line routing number information. In addition, the group letter recommended elimination of the requirement that the paying bank include and identify in the notice those data elements about which the paying bank is uncertain as to their accuracy. The group letter noted that this type of statement is infrequently used and that paying banks typically do not have a means of knowing which information is uncertain as to accuracy. Furthermore, the letter states that there is no standardized code or symbol that is agreed upon within the check industry for a bank to indicate uncertainty.

The Board agrees that including the account number of the depositing customer and the branch name or number of the depositary bank from its indorsement is of little use to the depositary bank because it will rely on its own systems to determine that information. The Board also agrees that the name of the paying bank is not necessary because banks will rely on the identity of the paying bank that is associated with the MICR line routing number information.[37] The Board recognizes that there is no standardized code or symbol agreed upon within the check industry, but also believes that there are instances in which an indicator of uncertainty is useful, such as for a handwritten check with a payee name that is difficult to decipher.

The Board has adopted as its final rule in § 229.31(c)(2)(i) Alternative 1 of the proposal, but has eliminated the content requirements of the account number of the depositing customer, the branch name or number of the depositary bank from its indorsement, and the name of the paying bank. The Board has adopted as its final rule in § 229.31(c)(2)(ii) the provision regarding the uncertainty indicator as proposed with clarifications in the commentary that banks may indicate uncertainty, such as with a question mark, in accordance with general industry practices or as otherwise agreed to by the parties.

c. Section 229.31(d)—Exceptions to the Expeditious Return of Checks and Notice of Nonpayment

Depositary banks that are not subject to subpart B (§ 229.31(d)(1)). Current §§ 229.30(e) and 229.33(e) state that the expeditious return requirements and the notice of nonpayment requirements, respectively, do not apply with respect to checks deposited in a depositary bank that does not maintain accounts (as defined in Regulation CC), because that depositary bank is not subject to the funds availability requirements of subpart B. The Board proposed to retain the substance of these exceptions as relevant to Alternative 1 (exceptions to

[36] The Board proposed deleting the requirement to include the paying bank's routing number because the paying bank's routing number would already be set forth in the MICR line of the check.

[37] The information requirements in the final rule for a notice of nonpayment are consistent with the information requirements for an electronic returned check, which often serves as the notice.

notice of nonpayment requirement) and Alternative 2 (exceptions to expeditious return requirement) when the check is being returned to a depositary bank that is not subject to subpart B (either because the depositary bank does not maintain ''accounts'' or because the depositary bank is not a ''depository institution'' under the EFA Act). The Board did not receive any comments on the proposed alternatives and has adopted them as proposed at § 229.31(d)(1).

Unidentifiable depositary bank (§ 229.31(d)(2)). Current § 229.30(b) of Regulation CC provides that the expeditious return requirement of current § 229.30(a) does not apply to the paying bank's return of a check if the depositary bank is unidentifiable. However, current § 229.33 of Regulation CC does not exempt a paying bank from the notice of nonpayment requirement when the depositary bank is unidentifiable.

The Board proposed that neither the expeditious return nor notice of nonpayment requirement would apply if the paying bank cannot identify the depositary bank with respect to the returned check. One commenter, the group letter, supported these revisions. The Board has adopted these exemptions as proposed at § 229.31(d)(2) with minor technical changes for clarity.

Other proposed exception to expeditious return requirement. Under Alternative 2, the Board proposed that a paying bank would not be subject to the expeditious return requirement if it does not have an agreement to send electronic returned checks to the depositary bank or to a returning bank that is subject to the expeditious return requirement for that check. Thus, under Alternative 2, a paying bank would not be subject to the expeditious return requirement when it or the depositary bank did not agree to accept returned checks electronically.

Under proposed Alternative 2, a paying bank could avoid the expeditious return requirement by choosing to send returned checks only in paper form. In its discussion of Alternative 2, the Board suggested that it would be unlikely that a paying bank would make such a choice in order to avoid the expeditious return requirement, given that paying banks would have a cost incentive to return checks electronically whenever possible. In addition, a paying bank would be subject to the expeditious return requirement under Alternative 2 if it had the necessary agreements to send electronic returned checks, but nevertheless chose to send paper returned checks. The Board requested comment on whether it should impose a limit—longer than two business days—on the timeframe within which a *paper* returned check must be received by the depositary bank.

Commenters stated that it would be difficult for a paying bank to know whether or not it had an electronic return arrangement with the depositary bank through its returning bank as set forth in Alternative 2, resulting in uncertainty as to whether or not the paying bank would be subject to the expeditious return requirement. Additionally, commenters were concerned that some banks would decide not to have an agreement with a returning bank or depositary bank to accept electronic returns so that they would not be subject to the expeditious return requirement.

The Board recognizes that although Alternative 2 provided an incentive to the depositary bank to accept electronic returns, it did not provide strong incentives to the paying bank to send electronic returns. The Board also agrees that determining in advance of returning a check whether the expeditious return exception applied under Alternative 2 could be difficult in some cases.

Therefore, as discussed above, the Board has not adopted Alternative 2 in its final rule. Rather, all paying banks and returning banks are subject to the expeditious return rule, regardless of whether they return checks electronically or via paper. The final rule, discussed further below, § 229.33(a) limits the expeditious return liability in certain cases. Specifically, a paying or returning bank may be liable to a depositary bank for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying or returning bank could return a returned check to the depositary bank electronically by commercially reasonable means. The final rule places the burden on a depositary bank that makes a claim for a violation of the expeditious return requirement to demonstrate that its arrangements are commercially reasonable.

d. Section 229.31(e)—Identification of Returned Check

Current § 229.30(d) states that a paying bank returning a check shall clearly indicate on the face of the check that it is a returned check and the reason for return. If the check is a substitute check, the paying bank shall place this information within the image of the original check that appears on the front of the substitute check. The Board proposed to revise the reference to the ''face'' of the check to a reference to the ''front'' of the check. The Board also proposed to expand the second sentence of current § 229.30(d) to cover the return of either a substitute check or an electronic returned check and to specify that the reason for return must be included such that the information is retained on any subsequent substitute check. The Board proposed to revise the accompanying commentary to provide greater clarity on the circumstances in which ''refer to maker'' by itself may be used as a reason for return, such as when a drawer with a positive pay arrangement instructs the bank to return the check. The proposed commentary provided greater clarity on the circumstances in which ''refer to maker'' by itself would be an impermissible reason for return, such as when a check is being returned because the paying bank already paid the item. The proposed language explained that, in such cases, the payee and not the drawer would have more information as to why the check is being returned.

Three commenters, including the group letter, supported the use of ''refer to maker'' as an appropriate reason for return, stating that this reason is needed in the situation where a paying bank has suspicion of possible fraud of the check or account, but has insufficient information to form a conclusive view. Two commenters, including the group letter, agreed with the proposal that ''refer to maker'' should not be used in situations involving duplicate presentment.

In § 229.31(e) of its final rule, the Board has adopted the proposed regulatory language on reasons for return with minor technical changes for clarity. Based on the alternatives suggested by commenters, the Board also changed the words ''permissible'' and ''not permissible'' to ''appropriate'' and ''inappropriate'' in the commentary. Although some commenters suggested that the Board remove all reference to ''refer to maker,'' the Board retained references to ''refer to maker'' in the commentary to provide basic guidance to the industry and in recognition that ''refer to maker'' can be appropriate in some cases. Furthermore, the Board added two new examples—an altered or unauthorized check—of inappropriate uses of ''refer to maker'' to the commentary.

e. Section 229.31(f)—Notice in Lieu of Return

Current § 229.30(f) provides that, if a check is unavailable for return, the paying bank may send in its place a copy of the front and back of the returned check, or, if no such copy is

available, a written notice of nonpayment containing the information specified in current § 229.33(b).

The Board proposed to revise the information required to be included in a notice in lieu of return and in a notice of nonpayment. Proposed Alternative 1 provided that, if a check is unavailable for return, the paying bank may send in its place a copy of the front and back of the returned check, or, if no such copy is available, a written notice of nonpayment containing the information specified for such notices. Proposed Alternative 2, which did not contain a notice of nonpayment requirement, nevertheless would have required the same information as Alternative 1 for notices in lieu of return.

The Board also proposed several revisions to the commentary to the notice-in-lieu provisions. Specifically, the Board proposed to clarify in the commentary that notice by a legible facsimile of both sides of the check may satisfy the requirements for a notice in lieu of return. In addition, the Board clarified that a bank may send a notice in lieu of return as an electronic image of both sides of the check only if it has an agreement to do so with the receiving bank.

Two commenters, including the group letter, addressed the proposed notice in lieu of return provision. One commenter supported the Board's proposal. The group letter, as with the notice of nonpayment, recommended that the notice in lieu of return should not include the account number of the depositing customer and the branch name or number of the depositary bank from its indorsement. The letter stated that a depositary bank would rely solely on its own check processing or deposit account system for this information. The group letter also suggested that the notice in lieu of return should not include the name of the paying bank because the depositary bank should rely on the identity of the paying bank that is associated with the MICR line routing number information.[38]

Similar to the notice of nonpayment, the Board has adopted as its final rule the notice in lieu of return with clarification that the account number of the depositing customer, the branch name or number of the depositary bank from its indorsement, and the name of the paying bank is not required. The Board has also revised the commentary to clarify examples of when notice in lieu of return is permissible.

f. Section § 229.31(g)—Extension of Deadline

Current § 229.30(c) provides that the deadline (as set forth in either the UCC, Regulation J (12 CFR part 210), or § 229.36 of Regulation CC) for return of a check or notice of nonpayment is extended to the time of dispatch where a paying bank uses a means of delivery that would ordinarily result in receipt by the bank to which it is sent (1) on or before the receiving bank's next banking day following the otherwise applicable deadline by the earlier of the close of that banking day or a cutoff hour of 2 p.m. or such later time as set by the receiving bank under UCC 4–108; (and further extended if a paying bank uses a ''highly expeditious'' means of transportation), or (2) prior to the cutoff hour of the next processing cycle (if sent to a returning bank), or on the next banking day (if sent to the depositary bank), for a deadline falling on a Saturday that is a banking day for the paying bank under the UCC. (Saturday is never a banking day under Regulation CC.)

The Board also proposed to extend the deadline for return or notice of dishonor or nonpayment (Alternative 1) or for return or notice of dishonor (Alternative 2) to the time of dispatch only if the returned check or notice is *actually* received by the depositary bank (or, in the case of an unidentifiable depositary bank, the bank to which the return is sent) within the specified timeframe. Under the proposal, returned checks and notices must be received by the depositary bank or receiving bank (1) on or before the receiving bank's next banking day following the otherwise applicable deadline by the earlier of the close of that banking day or a cutoff hour of 2 p.m. or such later time as set by the receiving bank under UCC 4–108 or (2) prior to the cutoff hour of the next processing cycle (if sent to a returning bank), or on the next banking day (if sent to the depositary bank), for a deadline falling on a Saturday that is a banking day for the paying bank under the UCC.

As noted above, both Alternative 1 and Alternative 2 clarified that the extension would apply to the deadlines for notice of dishonor or nonpayment under the UCC. The Board intended that clarification to be non-substantive. The Board proposed to eliminate the existing further extension of the deadline if the paying bank uses a ''highly expeditious'' means of transportation, given the existing prevalence of electronic return.[39] The Board proposed to clarify in the commentary that the paying bank may satisfy its midnight or other return deadline by sending an electronic returned check prior to the expiration of the deadline, if the paying bank has an agreement to do so with the receiving bank. The time when the electronic returned check is considered to be received by the depositary bank is determined by the agreement.

One commenter, the group letter, addressed these proposed changes. The group letter supported the Board's proposed commentary that clarified when an item is received by the depositary bank and agreed that the timing of the receipt of an electronic return by the depositary bank is appropriately determined by agreement. The group letter recommended that the Board revise the proposed commentary specifically to refer to bilateral agreements and clearinghouse rules or operating circulars, instead just of agreements generally. The group letter also suggested that the Board review the commentary to indicate more clearly that the paying bank satisfies its return obligation under the UCC in the context of an electronic returned check when the paying bank sends the electronic returned check from the paying bank's location in accordance with the UCC midnight deadline.

The Board has adopted the proposed deadline extension in § 229.31(g) and the accompanying commentary with the addition of a reference in the commentary to bilateral agreements and clearinghouse rules or operating circulars. The commentary clearly states that a paying bank's sending of the electronic return after midnight, by agreement, satisfies the midnight deadline.

g. Section 229.31(h)—Payable-Through and Payable-at Checks

Current § 229.36(a) provides that a check payable at or through a paying bank is considered to be drawn on that bank for purposes of subpart C's expeditious return and notice of nonpayment requirements.[40] The Board proposed to move this provision to proposed § 229.31(h). The Board also proposed to move commentary addressing the treatment of payable-through or payable-at bank under the

[38] One comment, received as part of the EGRPRA process, supported continued use of notice in lieu generally, stating that there are instances where the notice serves as the best method available to a credit union returning a check and the additional flexibility thus provides an important and continuing benefit.

[39] The example of ''highly expeditious'' means of transportation in the current commentary is a West Coast paying bank using an air courier to ship a returned check directly to an East Coast returning bank.

[40] A check sent for payment or collection to a payable-through or payable-at bank is not considered to be drawn on that bank for purposes of the midnight deadline provision of UCC 4–301.

midnight deadline provision of UCC 4–301 from current § 229.30(a) to the commentary for proposed § 229.31(h). The Board did not receive any comments on proposed § 229.31(h) and has redesignated current § 229.36(a) as proposed.

h. Section 229.31(i)—Reliance on Routing Number

Current § 229.30(g) provides that a paying bank may return a returned check based on any routing number designating the depositary bank appearing on the returned check in the depositary bank's indorsement. The Board proposed to redesignate this provision as § 229.31(i). The proposed commentary to § 229.31(i) provided that the paying bank also may rely on any routing number designating the depositary bank in the electronic check sent pursuant to an agreement when the electronic check is received by the paying bank.

The Board did not receive any comments on the redesignation or the proposed commentary to § 229.31(i). In § 229.31(i) of the final rule, the Board has adopted the provision and commentary as proposed.

3. Section 229.32—Returning Bank's Responsibility for Return of Checks

a. Section 229.32(a)—Return of Checks

Current § 229.31(a) sets forth a returning bank's expeditious return requirement and provides a two-day/four-day test and a forward-collection test for expeditious return, similar to the tests for paying banks described above. Under current § 229.31(a), a returning bank may send a returned check to the depositary bank or to any bank agreeing to handle the returned check expeditiously. This section also provides that a returning bank may convert a check to a qualified returned check (and sets forth format standards for qualified returned checks) and provides a one-business-day extension under the forward-collection test and deadline for return under the UCC and Regulation J if the returning bank converts a check to a qualified returned check. The extension does not apply to the two-day/four-day test or to checks returned directly to the depositary bank. Under current § 229.31(b), if a returning bank is unable to identify the depositary bank, the returning bank may send the returned check to (1) any collecting bank that handled the check for forward collection if the returning bank was not a collecting bank with respect to the returned check; or (2) a prior collecting bank, if the returning bank was a collecting bank with respect to the returned check.

Alternative 1 of proposed § 229.32 would eliminate the requirement that a returning bank return a check expeditiously. Accordingly, Alternative 1 would delete the two-day/four-day and forward-collection tests of current § 229.31(a) and would eliminate all references to expeditious return from the regulation and accompanying commentary. Proposed Alternative 2 would retain the expeditious return requirement for returning banks and the two-day test of current § 229.31(a). Both proposed alternatives would retain the provisions permitting a returning bank to send a returned check to the depositary bank, to any bank agreeing to handle the returned check, or, if the depositary bank is unidentifiable, to any collecting bank that handled the check for forward collection (if the returning bank was not a collecting bank with respect to the returned check) or to a prior collecting bank (if the returning bank was a collecting bank with respect to the returned check). In addition, both proposed alternatives would retain existing provisions that permit returning banks to convert a check to a qualified returned check. However, the provisions that permit a one-business-day extension for a qualified returned check would be eliminated in both proposed alternatives. Given the current prevalence of electronic check collection and return, such an extension does not appear to be operationally necessary or provide incentives for electronic handling.

The current commentary to § 229.31(a) explains that a returning bank agrees to handle a returned check for expeditious return if the returning bank publishes or distributes availability schedules for the return of returned checks and accepts the returned check for return; handles a returned check for return that it did not handle for forward collection; or otherwise agrees to handle a returned check. The Board proposed to clarify that a returning bank may send an electronic returned check directly to the depositary bank if the returning bank has an agreement with the depositary bank to do so. The Board also proposed to clarify in the commentary that a returning bank agrees to handle a returned check if it agrees with the paying bank or returning bank to handle electronic returned checks sent by that bank.

The Board did not receive any comments specifically concerning § 229.32(a). The Board has adopted Alternative 2 of § 229.32(a) as proposed, retaining the expeditious return requirement for returning banks, with a two-day test. In addition, the Board has adopted the proposed regulatory and commentary text that appeared in both alternative proposals regarding unidentifiable depositary banks, qualified returned checks, cut-off hours, and UCC sections affected.

b. Section 229.32(b)—Expeditious Return of Checks

Under Alternative 2 of proposed § 229.32(b), the Board would modify the existing rule in current § 229.31(a) for expeditious return of checks by a returning bank to require that a returning bank must return the check in a manner such that the check would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank.[41] This returning bank's expeditious return requirement under Alternative 2 of proposed § 229.32(b) would be consistent with the paying bank's expeditious return requirement under Alternative 2 of § 229.31(b). In addition, Alternative 2 of proposed § 229.32(b) would eliminate the current provisions setting forth a four-day test for expeditious return of nonlocal checks (which no longer exist) and a forward-collection test, and would remove all references to those tests throughout the regulation and related commentary. The proposed commentary to Alternative 2 would retain language in the current commentary to § 229.31(a) describing when a returning bank is subject to the expeditious return requirement with respect to a returned check. The proposed commentary also would clarify that a returning bank could agree with the paying bank or another returning bank to handle returned checks sent by that paying bank or other returning bank for expeditious return to certain depositary banks. The proposed commentary would have removed the current example that states that, in handling a returned check that it did not handle for forward collection, a returning bank agrees to return the check expeditiously.[42]

The Board did not receive any comments specifically concerning § 229.32(b). The Board has adopted an expeditious return requirement for

[41] As noted above, Alternative 1 would have eliminated the expeditious return requirement.

[42] Deletion of this example was consistent with the proposed regulatory provisions that exempted a returning bank from the expeditious return requirements if it did not have arrangements in place to return the check electronically (See discussion of § 229.32(c) below).

returning banks, with a two-day expeditious return test, for the reasons discussed above in this section-by-section analysis with respect to the two-day expeditious return test for paying banks. The Board has also adopted the proposed commentary with modifications to clarify that a returning bank that agrees to handle a returned check (as described in the commentary to § 229.32(a)) is subject to the expeditious return requirement for the reasons discussed below in § 229.33(a) of this section-by-section analysis.

c. Section 229.32(c)—Exceptions to Expeditious Return of Checks by Returning Bank

Alternative 1 of proposed § 229.32(c) would eliminate the expeditious return requirement, and thus eliminate these exceptions to that requirement. Alternative 2 of proposed § 229.32(c) included exceptions to the expeditious return requirement similar to those set forth for paying banks under Alternative 2 of proposed § 229.31(c): The expeditious return requirement would not apply if (1) the returning bank does not have an agreement to send electronic returned checks directly or indirectly to the depositary bank, and the returning bank has not otherwise agreed to handle the returned check; (2) the check is being returned to a depositary bank that is not subject to subpart B of Regulation CC; or (3) the check is being returned to an unidentifiable depositary bank.

No agreements for direct or indirect electronic return. Alternative 2 of proposed § 229.32(c) would not subject a returning bank to the expeditious return requirement if the returning bank did not have an agreement to send electronic returned checks to the depositary bank or to a returning bank that has an agreement to send electronic returned checks to the depositary bank, and the returning bank has not otherwise agreed to handle the returned check expeditiously. As with paying banks under Alternative 2 of proposed § 229.31(c), a returning bank would be subject to the expeditious return requirement if it had the necessary agreements to send electronic returned checks, but chose to send paper returned checks. The proposed commentary to Alternative 2 of proposed § 229.32(c) provided an example of when a returning bank would not be subject to the expeditious return requirement because it had no agreement to send electronic returned checks directly or indirectly to the depositary bank.

Depositary bank not subject to subpart B. Alternative 2 of proposed § 229.32(c) would provide an exception to a returning bank's expeditious return requirement for checks deposited into a depositary bank that is not subject to subpart B of Regulation CC. The proposed commentary to Alternative 2 explained that a bank is not subject to subpart B when it does not maintain ''accounts'' and when it is not a ''depository institution'' within the meaning of the EFA Act.

Unidentifiable depositary bank. The Board proposed under Alternative 2 to provide that a returning bank that receives a returned check for which the paying bank was unable to identify the depositary bank would not be subject to the expeditious return requirement. Even though the returning bank may be able to identify the depositary bank, it would be difficult for the returning bank to meet the two-day test because the paying bank likely would have sent the returned check as if it were not subject to the expeditious return requirement. A returning bank would still be required to use ordinary care when returning the item.[43]

The Board did not receive any comments concerning Alternative 2 of proposed § 229.32(c). For the reasons stated in § 229.31(d) of this section-by-section analysis, the Board has adopted as its final rule Alternative 2 of proposed § 229.32(c) and the accompanying commentary, with clarifying revisions, setting out exceptions to the expeditious return of checks for returning banks with modifications to correspond to the exceptions for paying banks, including removal of the exception for returning banks that do not have agreements for direct or indirect electronic return. Because a returning bank that handles a returned check is subject to the expeditious return requirement, as described in § 229.32(b) of this section-by-section analysis, the Board has also adopted an exception to the expeditious return requirement for returning banks that handle a misrouted check pursuant to § 229.33(f).

d. Section 229.32(d)—Notice in Lieu of Return

The current notice in lieu of return requirements for returning banks are the same as for paying banks. The Board requested comment on changes to the notice-in-lieu provisions for returning banks in § 229.32(d) and the related commentary that parallel the proposed notice-in-lieu provisions for paying banks. The Board did not receive any comments on these provisions and has adopted the changes to parallel those for paying banks discussed in § 229.31(f).

e. Section 229.32(e)—Settlement

In proposed § 229.32(e), the Board retained a returning bank's settlement obligation for returned checks as set forth in current § 229.31(c). In the proposed commentary to § 229.32(e), the Board made minor revisions to the current commentary to current § 229.31(c) to improve clarity. The Board did not receive any comments on proposed § 229.32(e) or the proposed related commentary and has adopted the revisions as proposed.

f. Section 229.32(f)—Charges

In proposed § 229.32(f) the Board retained the current § 229.31(d), which provides that a returning bank may impose a charge on a bank sending a returned check for handling the returned check. The Board did not receive any comments on proposed § 229.32(f). The Board has retained current § 229.31(d) and redesignated it as § 229.32(f) as proposed.

g. Section 229.32(g)—Reliance on Routing Number

Current § 229.31(g) provides that a returning bank may return a returned check based on any routing number designating the depositary bank appearing on the returned check in the depositary bank's indorsement or in magnetic ink on a qualified returned check. The Board proposed to redesignate this provision as § 229.32(g). The Board also proposed to add to the current commentary a statement that a returning bank, when returning a check, may rely on routing numbers in the electronic returned check received by the returning bank pursuant to an agreement. This proposed revision is similar to that described in connection with the proposed commentary to proposed § 229.31(i), above. The Board did not receive any comments on proposed § 229.32(g) or the proposed related commentary and has adopted them as proposed.

4. Section 229.33—Depositary Bank's Responsibility for Returned Checks and Notices of Nonpayment

The Board proposed to consolidate the regulation's provisions related to a depositary bank's responsibility for returned checks and notices of nonpayment in one section.

a. Section 229.33(a)—Right to Assert Claim

As discussed above, the Board proposed two alternatives with respect to the expeditious return requirement.

[43] UCC 4–202.

Alternative 1 would eliminate the expeditious return requirement, and Alternative 2 would retain the expeditious return requirement so long as the paying bank had agreements in place to send an electronic return, directly or indirectly, to the depositary bank. Some commenters stated that Alternative 1 had the potential to slow check returns and provided a lack of incentives for depositary banks that currently accept paper checks to accept electronic returns. Other commenters stated that, under Alternative 2, it may be difficult for a paying bank to know whether its returning bank had an electronic return arrangement with a particular depositary bank and thus whether it was subject to the expeditious return requirement. These commenters also raised the concern that a paying bank could avoid being subject to the expeditious return requirement by not having an agreement with either a depositary bank or returning bank to accept electronic returns. In light of the concerns raised with both Alternative 1 and Alternative 2, the Board has adopted a final rule that imposes an expeditious return requirement for all paying and returning banks (discussed above under §§ 229.30 and 229.31).

Rather than basing the applicability of the expeditious return requirement on the electronic return arrangements established by the paying and returning banks with the depositary bank, the final rule places limits on a depositary bank's ability to bring a claim for a violation of an expeditious return requirement. Section 229.33(a)(1) of the final rule states that a paying bank or returning bank may be liable to a depositary bank under § 229.38 for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying bank or returning bank could return a returned check to the depositary bank electronically, directly or indirectly, by commercially reasonable means. Section 229.33(a)(2) of the final rule states that the depositary bank has the burden of establishing that its arrangements for electronic returns meet the ''commercially reasonable'' standard.

The Board believes that this provision, in combination with the two-day expeditious return requirement for all checks as well as the notice of nonpayment requirement for returned checks over $5,000, provides an effective incentive for electronic returns. Specifically, the Board believes that under the final rule, depositary banks will have appropriate incentives to accept electronic returns in order to retain their ability to bring claims for violations of an expeditious return requirement, and paying banks and returning banks will have incentives to send returns electronically in order to avoid the likelihood that they would fail to meet their expeditious return obligations using paper returns.

The ''commercially reasonable means'' requirement is intended to prevent a depositary bank from establishing electronic return arrangements that are very limited in scope or that provide unreasonable barriers to presentment such that, in practice, the depositary bank would accept only a small number of its returns electronically. The Board believes the commercially reasonable means standard allows for case-by-case flexibility and can change over time to reflect market practices.

b. Section 229.33(b)—Acceptance of Electronic Returned Checks and Electronic Notices of Nonpayment

In Alternative 1, the Board proposed to provide that a depositary bank's agreement with the transferor bank governs its acceptance of electronic returned checks and electronic written notices of nonpayment.[44] The transferor bank may be either the paying bank or a returning bank. Alternative 2 was identical to Alternative 1, except references to notices of nonpayment were omitted. The proposed commentary clarified the operation of the provision and described some of the details that might be specified in such an agreement. The Board did not receive any comments on the proposal. The Board has adopted Alternative 1 and the related commentary as proposed, now designated as § 229.33(b).

c. Section 229.33(c)—Acceptance of Paper Returned Checks and Paper Notices of Nonpayment

Current § 229.32(a) specifies the locations where a depositary bank must accept returned checks and notices of nonpayment.[45] The Board proposed to specify that the provisions of current § 229.32(a) would apply to paper returned checks and paper notices of nonpayment only, as the acceptance of electronic returns and notices would be covered by an agreement between the banks. The Board also proposed to eliminate the references to situations in which the address in the depositary bank's indorsement is not in the same check-processing region as the address associated with the routing number in its indorsement. Because there is a now single national check-processing region, these situations no longer exist. The Board did not receive any comments on the proposed regulatory text and has adopted it as proposed, now designated as § 229.33(c). The Board has adopted the proposed corresponding commentary with one revision, which removes as redundant the statement that banks may vary by agreement the location at which notices are received.

d. Section 229.33(d)—Acceptance of Oral Notices of Nonpayment

Current § 229.33(c) requires a depositary bank to accept oral notices of nonpayment (1) either at the telephone or telegraph number of its return-check unit indicated in the indorsement, or, if no such number appears in the indorsement or if the number is illegible, at the general purpose number of its head office or the branch indicated in the indorsement; and (2) at any other number held out by the bank for receipt of notice of nonpayment.

Proposed Alternative 1 provided that a depositary bank must accept oral notices of nonpayment (1) at the telephone number indicated in the indorsement, rather than solely the telephone number of the return-check unit indicated in the indorsement and (2) at any other number held out by the bank for receipt of notice of nonpayment.[46] (Proposed Alternative 2 eliminated the notice of nonpayment provision.) The Board also requested comment on whether a depositary bank that has agreed to accept written notices of nonpayment electronically should be required to also accept oral notices of nonpayment. The Board did not receive any comments on Alternative 1 and has adopted it and the accompanying commentary as proposed, now designated as § 229.33(d).

e. Section 229.33(e)—Payment

Current § 229.32(b) sets forth the depositary bank's duties to settle with a paying bank or returning bank for a returned check. The Board proposed to make minor non-substantive amendments to this provision. The Board did not receive any comments on this provision and has adopted it, and the accompanying commentary, as proposed, now designated as § 229.33(e).

[44] An agreement is not required for a paying bank to provide an oral notice of nonpayment, *i.e.,* a notice provided over the telephone as discussed in § 229.33(c) below.

[45] Current § 229.33(c) provides that § 229.32(a) governs where a depositary bank must accept written notices of nonpayment.

[46] Similar to the notice of nonpayment provisions for paying banks, the Board proposed to delete references in the depositary bank notice of nonpayment provisions to using the telegraph as a means of accepting notices.

f. Section 229.33(f)—Misrouted Returned Checks and Written Notices of Nonpayment

The Board proposed to modify slightly current § 229.32(c), which requires a bank that receives a misrouted returned check or written notice of nonpayment on the basis that it is the depositary bank, but determines that it is not the depositary bank, to send the returned check or notice to the depositary bank directly, to a returning bank agreeing to handle the returned check or notice expeditiously, or back to the bank from which it received the misrouted return or notice. Consistent with the Board's proposed changes to the expeditious return requirements of both Alternative 1 and Alternative 2, the Board also proposed to remove the requirement that a returning bank agree to handle the returned check expeditiously. The Board did not receive any comments on this provision, and has adopted it as proposed, now designated as § 229.33(f).[47]

g. Section 229.33(g)—Charges

The proposal set forth without change the provisions of current § 229.32(d) prohibiting a depositary bank from imposing charges for accepting and paying checks being returned to it. The Board did not receive any comments on this provision, and it remains unchanged in the final rule, now designated as § 229.33(g).

h. Section 229.33(h)—Notification to Customer

Current § 229.33(d) requires a depositary bank to notify its customer when it receives a returned check or notice of nonpayment related to that customer's account. The Board proposed to amend this provision to also require that the depositary bank notify its customer when the bank receives notice of recovery under § 229.35(b) (liability of bank handling a check).[48]

Both proposed Alternatives 1 and 2 would add this requirement, although Alternative 2 did not retain the reference to a notice of nonpayment. The Board did not receive any comments on the proposed provision or related commentary. In its final rule, the Board has adopted Alternative 1 and the related commentary as proposed, now designated as § 229.33(h).

[47] As described above in § 229.32(c) of this section-by-section analysis, the Board has adopted an exception to the expeditious return requirement of § 229.32(b) for returning banks that handle misrouted returned checks pursuant to this section.

[48] The notice of recovery customer notification provision is currently set forth in the commentary to § 229.33(d).

i. Section 229.33(i)—Depositary Bank Without Accounts

Current § 229.33(e) provides that the notice of nonpayment requirement does not apply to checks deposited in a depositary bank that does not maintain accounts (as defined in Regulation CC). The Board did not propose any changes nor receive any comments on this provision. It remains unchanged in the final rule, designated as § 229.33(i).

5. Section 229.34—Warranties and Indemnities

a. Section 229.34(a)—Warranties With Respect to Electronic Checks and Electronic Returned Checks

Proposed § 229.30(a), adopted in the final rule, provides that electronic checks and electronic returned checks are subject to the provisions of subpart C as if they were checks. Accordingly, the Board's proposed § 229.34 applied all of the warranties and indemnities in that section to a bank that handles an electronic check or electronic returned check. In addition to those warranties, the Board proposed that new warranties be made with respect to electronic checks and electronic returned checks.

Content of warranties. The Board proposed to add new warranties that would be made by a bank that transfers or presents an electronic check or electronic returned check and receives settlement or other consideration for it. The Board proposed that the bank would warrant that the electronic image accurately represents all of the information from the original check as of the time the original check was truncated, that the electronic information contains an accurate record of all the MICR line information required for a substitute check under the regulation's substitute check definition,[49] and the amount. The bank would also warrant that no person will receive transfer, presentment, or return of, or otherwise be charged for, an electronic check or electronic returned check, the original check, a substitute check, or a paper or electronic representation of a substitute check such that the person will be asked to make payment based on a check it has already paid. These warranties are similar to the warranties provided in § 229.52 for transfers of substitute checks and would result in a seamless warranty chain regardless of whether a check is in the form of an electronic check or a substitute check.

The Board proposed to clarify in the commentary that the warranties in § 229.34(a) are in addition to any warranties a bank makes under § 229.34(b) through (e) with respect to an electronic check or electronic returned check. Furthermore, the Board proposed to clarify in the commentary how the new warranties in § 229.34(a)(1) relate to the creation of substitute checks and the substitute check warranties. The Board also proposed to clarify in the commentary that the sending bank and receiving bank may vary the new warranties by agreement with respect to the parties that are bound by the agreement.

[49] 12 CFR 229.2(aaa).

Parties to whom the warranties are made. The Board proposed to provide that these warranties would flow, in the case of electronic checks sent for forward collection, to the transferee bank, any subsequent collecting bank, the paying bank, and the drawer of the check. The Board proposed to provide that, in the case of an electronic returned check, the warranties would flow to the transferee returning bank, any subsequent returning bank, the depositary bank, and the owner of a returned check. These provisions are consistent with the flow of the substitute check warranties in § 229.52.

Most commenters agreed with the proposal to extend warranties to electronic checks and electronic returned checks. Four commenters expressed concern that the proposal could result in some increased risk to banks because electronic checks and electronic returned checks are currently governed by agreements between banks and requested, without further elaboration, that the Board limit these risks. Some commenters disagreed with the portion of the proposal that extended the warranties to the drawer of the check and the owner of the returned check because it would complicate the interbank warranty process, complicate the appropriate resolution of the dispute, and potentially expose banks other than the account holding bank to direct liability.

In the final rule, the Board has adopted § 229.34(a) and the accompanying commentary as proposed. The Board acknowledges that electronic checks and electronic returned checks are currently governed by agreements between banks and notes that, as stated in the commentary, the warranties in § 229.34(a) can be varied by agreement by the sending bank and receiving bank. The Board believes that extending the warranties to the drawer of the check and the owner of the returned check is important to maintain a consistent chain of Check-21-like warranties regardless of whether the check is in the form of an electronic check or a substitute check. The final

rule provides protection for drawers and owners from harm that is usually beyond their control, such as harm resulting from illegible images or incorrect MICR lines.

b. Section 229.34(b)—Transfer and Presentment Warranties With Respect to a Remotely Created Check

Under current § 229.34(d), a bank that transfers or presents a remotely created check and receives settlement or other consideration warrants to the transferee bank, any subsequent collecting bank, and the paying bank that the person on whose account the remotely created check is drawn authorized the issuance of the check in the amount stated on the check and to the payee stated on the check. The Board proposed to retain this provision without substantive change. The Board also proposed to revise the commentary to conform to the Federal Trade Commission's proposed changes to its Telemarketing Sales Rule concerning remotely created checks.[50] The Board did not receive any comments with respect to this section and has adopted it, now designated as § 229.34(b), with revisions to the commentary to simplify the discussion of the Federal Trade Commission's final Telemarketing Sales Rule concerning remotely created checks by providing a cross-reference.[51] The Board has also added an introduction to the commentary for § 229.34 to clarify that the warranties apply to paper checks and electronic checks.

c. Section 229.34(c)—Settlement Amount, Encoding, and Offset Warranties

Current § 229.34(c) contains additional warranties provided by banks related to the settlement amount requested, the encoding on the check, and certain settlement offsets. Under the proposed rule, the Board would have retained these provisions, and they would be applicable to electronic checks and electronic returned checks by operation of § 229.30(a), which provides that electronic checks and electronic returned checks are subject to the provisions of subpart C as if they were checks or returned checks, unless the subpart provides otherwise. In addition, the Board proposed to revise slightly the encoding warranty, which currently provides a warranty that the information encoded after issue in magnetic ink on the check or returned check is correct, and that the information encoded after issue includes information placed in the MICR line of a substitute check that represents that check or returned check. The Board proposed to revise the wording of that warranty to provide (1) that a bank warrants that the information encoded after issue is ''accurate,'' instead of ''correct'' and (2) that the information encoded after issue regarding the check or returned check means any information that could be encoded in the MICR line of a paper check. The Board did not receive any comments with respect to this section and has adopted it as proposed, now designated as § 229.34(c). The Board has also added an introduction to the commentary for § 229.34 to clarify that the warranties apply to paper checks and electronic checks.

d. Section 229.34(d)—Returned Check Warranties

Current § 229.34(a) contains warranties provided by paying banks and returning banks with respect to returned checks. Like the settlement and encoding warranties discussed above, the Board proposed to retain these returned check warranties and make them applicable to electronic returned checks by operation of § 229.30(a), which provides that electronic returned checks are subject to the provisions of subpart C as if they were checks or returned checks, unless the subpart provides otherwise. Under one of the current returned check warranties, the paying bank warrants that it returned the check by its return deadline under the UCC (or the UCC deadline as extended under Regulation CC), and the Board's Regulation J (12 CFR part 210), which governs the collection and return of checks through Federal Reserve Bank. The Board proposed to remove the reference to return deadlines specified in Regulation J. Any variation of this warranty for checks collected through the Federal Reserve Banks would be addressed in Regulation J and need not be specified in Regulation CC. The Board did not receive any comments with respect to this section and has adopted the section and its commentary, consistent with the proposal and the expeditious return requirements in Alternative 2, now designated as § 229.34(d). The Board has also added an introduction to the commentary for § 229.34 to clarify that the warranties apply to paper checks and electronic checks.

e. Section 229.34(e)—Notice of Nonpayment Warranties

Current § 229.34(b) contains warranties provided by the paying bank with respect to a notice of nonpayment to the transferee bank, any subsequent transferee bank, the depositary bank, and the owner of the check. Under proposed Alternative 1, the requirement for notices of nonpayment would be retained, along with the notice of nonpayment warranties. Under one of the current notice of nonpayment warranties, the paying bank warrants that it returned or will return the check by its return deadline under the UCC (or the UCC deadline as extended under Regulation CC), and the Board's Regulation J (12 CFR part 210), which governs the collection and return of checks through Federal Reserve Bank. As was the case with the return warranties discussed above, the Board proposed to remove the reference to return deadlines specified in Regulation J; any variation of this warranty for checks collected through the Federal Reserve Banks would be addressed in Regulation J and need not be specified in Regulation CC.

Current Regulation CC also provides that the notice of nonpayment warranties do not apply with respect to checks drawn on a state or a unit of general local government that are not payable through or at a bank. State and local governments are not ''paying banks'' under the rule and checks drawn on state and local governments are explicitly excluded from the notice of nonpayment requirements under § 229.42.[52] Similarly, the Treasury of the United States and the U.S. Postal Service are not ''paying banks,'' and checks drawn on those entities are also excluded from the notice of nonpayment requirement under § 229.42. Accordingly, the Board proposed to explicitly state in the notice of nonpayment warranty section that those warranties are not made with respect to checks drawn on the Treasury of the United States or U.S. Postal Service money orders.

The Board did not receive any comments with respect to this section. As discussed above in § 229.31(c), the Board has adopted the notice of nonpayment requirement for returned checks over $5,000. Accordingly, the Board is also adopting the notice of nonpayment warranties consistent with its proposal under Alternative 1, now designated as § 229.34(e). The Board has added an introduction to the commentary for § 229.34 to clarify that

[50] The proposed rule is available on the FTC's Web site at *https://www.ftc.gov/policy/federal-register-notices/16-cfr-part-310-telemarketing-sales-rule-federal-register-notice.*

[51] The final rule is available on the FTC's Web site at *https://www.ftc.gov/policy/federal-register-notices/16-cfr-part-310-telemarketing-sales-rule-final-rule-amendments.*

[52] See commentary to the definition of ''paying bank'' in § 229.2(z).

the warranties apply to paper checks and electronic checks.[53]

f. Section 229.34(f)—Remote Deposit Capture Indemnity

The Board proposed a new indemnity to address the allocation of liability when a depositary bank accepts deposit of a check through ''remote deposit capture,'' that is, when the depositor sends the bank electronic information about a check, such as a photographic image, which the bank uses to create an electronic check or substitute check for collection. The proposed indemnity would be provided by a bank that accepted a check via remote deposit capture to a bank that accepted the original check for deposit, in the event the bank that accepted the original check incurred a loss because the check had already been paid.

Under the proposal, the indemnity would be provided by a depositary bank that (1) is a ''truncating bank'' under Regulation CC because it accepts deposit of an electronic image or other electronic information related to an original check, (2) does not receive the original check, (3) receives settlement or other consideration for an electronic check or substitute check related to the original check, and (4) does not receive the check returned unpaid. The proposed indemnity ran to a depositary bank that accepts the original check for deposit for that depositary bank's losses due to the check having already been paid.

Thirty commenters addressed the proposed indemnity relating to remote deposit capture. Twenty-two commenters opposed the indemnity as proposed, believing that it would cause small institutions to stop offering remote deposit capture.[54] Of those, 10 commenters proposed offering an indemnity for remote deposit capture only when the bank does not mandate a restrictive indorsement that states the item is, for example, ''for mobile deposit only at XYZ bank, date, and account number.'' One commenter recommended shifting the liability only if the institution that accepted the paper check does not offer remote deposit capture. Some commenters requested clarification of how the warranty applies when a check is truncated by multiple banks.

Six commenters, including a Federal Reserve Bank commenter and the group letter, supported the proposed provision, stating that it is reasonable to impose the loss on the truncating bank because it is best positioned to control the subsequent deposit of the paper check by its customer. Two commenters, including the group letter, suggested that the proposal include a time period within which the indemnified bank must make a claim. Three commenters, including the group letter, suggested that the Board include commentary on the process by which the indemnified bank must obtain information from the paying bank to identify the indemnifying bank. A few commenters, including the group letter, suggested that the Board clarify that the indemnity is not applicable when the loss is the result of an alteration of an item, or counterfeit item.

The Board finds that basing the indemnity on whether the depositary bank that accepts the original check also offers remote deposit capture would not be an appropriate approach. The Board believes that the bank that accepts the original check should receive the indemnity, irrespective of whether that bank also offers remote deposit capture. As noted by many commenters, the bank that accepts a check via remote deposit capture is in the best position to address the actions of its own customer and to guard against the subsequent deposit of the paper check. The Board believes that this indemnity provides an appropriate incentive for the bank providing remote deposit capture services to take steps to minimize potential fraudulent deposits. The Board also believes that § 229.38(g) provides sufficient clarity that actions under this section must be brought within one year after the date of the occurrence of the violation involved.

Based on comments received, however, the Board has added an exception to the indemnity, and associated commentary, which would prevent a bank from making an indemnity claim if it accepted the original check containing a restrictive indorsement inconsistent with the means of deposit, such as ''for mobile deposit only.'' The Board believes that providing this exception may reduce accidental double deposits and may provide incentives for banks that receive remote deposit capture deposits to take steps to minimize intentionally fraudulent deposits.

The Board believes that the details of how to ascertain the identity of the indemnifying bank are best left to the banks involved. The Board will continue to monitor the use of this indemnity and may consider further action should conditions warrant. In the final rule and corresponding commentary, the Board is changing this section's title from the proposed ''Truncating Bank Indemnity'' to ''Remote Deposit Capture Indemnity'' and has designated this section as § 229.34(f).[55]

g. Section 229.34(g)—Indemnities With Respect to Electronically-Created Items

As a practical matter, a bank receiving an electronic image generally cannot distinguish an image that is derived from a paper check from an electronically-created item. Nonetheless, the bank receiving the electronically-created item often handles the electronically-created image as if it were derived from a paper check. Accordingly, the Board proposed a new requirement for a bank that transfers an electronic image or electronic information that is not derived from a paper check to indemnify the transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank against any loss, claim, or damage that results from the fact that the image or information was not derived from a paper check.

The proposed indemnity would protect a bank that receives an electronically-created item from a sending bank against any loss or damage that results from the fact that there was no original check corresponding to the item that the sending bank transferred. The indemnity would not flow to the paying bank's customer, payee, or depositary bank of the item. The Board reasoned that the payee and the depositary bank are in the best position to know whether an item is electronically created and to prevent the item from entering the check-collection system. Additionally, for items electronically created by the paying bank's customer, the customer introduces the item into the check collection system.[56] Therefore, the Board did not believe it would be

[53] The Board has also corrected an error in the current commentary, which incorrectly used ''return'' instead of ''does not return'' in stating that ''This paragraph imposes liability on a paying bank that gives notice of nonpayment and then subsequently returns the check.''

[54] One comment, received as part of the EGRPRA process, expressed similar concerns.

[55] The final rule provides that the bank providing the indemnity accepts a deposit of ''an electronic image or other electronic information'' related to an original check, rather than an ''electronic check.'' This revision reflects the fact that the data deposited by the indemnifying bank's customer may not meet all the requirements of the definition of ''electronic check,'' such as not including the identity of the depositary bank and the truncating bank, and the indemnifying bank may need to format the data as an electronic check or a substitute check before sending it for collection.

[56] For an electronically-created item not created by the paying bank's customer that results in an unauthorized debit, the paying bank's customer should normally be made whole by the paying bank in accordance with UCC 4–401 or Regulation E (12 CFR part 1005), as applicable.

appropriate for subsequent banks handling the item to indemnify those parties for losses. The Board also proposed examples of the indemnity in the commentary.

Eighteen commenters, including the group letter, addressed the indemnities relating to electronically-created items. All commenters, except one, agreed with providing some form of indemnity for electronically-created items. Of these commenters, some agreed with the proposal without recommending any changes, some agreed and requested that the Board clarify the indemnities without further specification, and some agreed and requested that the indemnities be combined with some form of warranty. The commenters that proposed the indemnities be combined with warranties, including the group letter and one Federal Reserve Bank commenter, suggested providing either the same warranties as for checks, the same warranties as for substitute checks, or a combination of the two. The commenter that opposed the proposed indemnities stated that electronically-created items present inherent risks, and that banks with a substantial volume of these transactions can adequately mitigate the risk without mandating indemnity requirements for other banks that are not similarly situated.

Three commenters, including the group letter, requested that the Board clarify that a paying bank may bring a claim under the proposed indemnity to recover a paying bank's losses arising from its own Regulation E noncompliance. The group letter also suggested that the Board clarify that an electronically-created ''remotely created check'' would be covered by the proposed indemnities and provide more detailed commentary regarding the application of the indemnity to an unauthorized electronically-created item.

In the final rule, the Board has adopted two additional indemnities along with the previously proposed indemnity for electronically-created items. The newly adopted indemnities are for losses caused by the fact that (1) the person on whose account the electronically-created item is drawn did not authorize the issuance of the item in the amount stated on the item or to the payee stated on the item, and (2) a person receives a transfer, presentment, or return of, or otherwise is charged for an electronically-created item such that the person is asked to make payment based on an item or check it has already paid. Each bank that transfers or presents an electronically-created item and receives settlement indemnifies the transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank. The transferees protected by these additional indemnities will have a claim against the indemnifying bank for damages pursuant to § 229.34(i) regardless of whether the damages would have occurred if the item transferred had been derived from a paper check. The Board believes that these additional indemnities provide a basic level of protection from unauthorized items and duplicate presentment, which are common problems associated with electronically-created items. The Board is adopting these protections as indemnities, rather than warranties as some commenters proposed, as there would not likely be a difference in the damage calculation as between an indemnity and a warranty, and the rule permits a comparative negligence claim for indemnities, which may be appropriate in some cases for these items. Alongside the new indemnities, the Board has adopted the indemnity with respect to electronically-created items as proposed. The provisions on indemnities for electronically-created items are designated as § 229.34(g) in the final rule.

The Board believes that the commentary and corresponding examples included with the newly defined term ''electronically-created item'' in § 229.2(hhh) provide sufficient clarity that an electronically-created ''remotely created check'' would meet the definition and therefore would also be covered by § 229.2(g). The Board has clarified in the commentary that a paying bank may bring a claim under the proposed indemnity to recover a paying bank's losses arising from Regulation E non-compliance. The Board has also revised the commentary and examples to provide additional clarity with respect to unauthorized items and the application of the indemnities to depositary banks.

h. Section 229.34(h)—Damages for Breach of Warranties

The Board proposed no substantive changes to current § 229.34(e) (and related commentary) limiting the amount of damages for breach of the warranties set forth in § 229.34. The Board did not receive any comments with respect to this provision, and it remains unchanged in the final rule, designated as § 229.34(h), except to correct cross-references in the commentary.

i. Section 229.34(i)—Indemnity Amounts

The Board proposed a new provision, and accompanying commentary, to specify the maximum amounts of the new proposed indemnities for electronically-created items and remote deposit capture. Specifically, the Board proposed to provide that the indemnity amount not exceed the sum of the amount of the loss, up to the amount of the settlement or other consideration received by the indemnifying bank, and interest and expenses (including costs, reasonable attorney's fees and other expenses of representation).

In addition, the Board proposed to subject the indemnities for electronically-created items and remote deposit capture to a comparative negligence standard by providing that the indemnity amount would be reduced by the portion of the indemnified bank's loss that is attributable to the indemnified bank's negligence or failure to act in good faith. The proposal also specified that the indemnity would not affect the rights of a person under the UCC or other applicable provisions of state or federal law.

One commenter, the group letter, stated that the Board should not allow the comparative negligence defense for the indemnities because it would complicate the resolution of claims by paying banks. Specifically, the group letter expressed concern that the truncating bank would raise a comparative negligence defense in order to improve its bargaining position. The group letter stated that the losses associated with electronically-created items and remote deposit capture should be placed on the bank that allowed it to enter the payment system and that the paying bank had no control over the creation of the item.

The Board does not believe it is appropriate to allow a bank that has been negligent or acted in bad faith to obtain an indemnity. Moreover, reducing the amount of the indemnity based on the negligence or failure to act in good faith on the part of the indemnified party is consistent with the approach taken in the Check 21 Act. Accordingly, the Board has adopted proposed § 229.34(i) with the addition of commentary clarifying that an indemnified bank may not recover more than the indemnity amount described.

j. Section 229.34(j)—Tender of Defense

Current § 229.34(f) provides for the tender of defense by a bank that is sued for a breach of a Regulation CC warranty. The regulation permits tender of defense to a prior bank in the collection or return chain and sets out notice requirements for the tender. The Board proposed a minor change to this provision to broaden its application to

indemnities as well as warranties. The Board did not receive any comments with respect to this provision and has adopted it as proposed, now designated as § 229.34(j).

k. Section 229.34(k)—Notice of Claim

Current § 229.34(g) provides that a notice of a warranty claim must be provided to the warranting bank within 30 days after the claimant has reason to know of the warranty breach and the identity of the warranting bank, otherwise the warranting bank is discharged to the extent of any loss caused by the delay in giving notice. The Board proposed to expand this provision of the rule (and its accompanying commentary) to cover notices of indemnity claims as well as warranty claims. The Board did not receive any comments with respect to this section and has adopted the provisions substantively as proposed, with minor editorial changes, now designated as § 229.34(k).

6. Section 229.35—Indorsements

Regulation CC currently requires a bank (other than the paying bank) that handles a check or returned check to indorse the check in a manner that permits a person to interpret the indorsement in accordance with the indorsement standard set forth in Appendix D to the regulation. Current Appendix D pertains to indorsements that banks apply to original checks and substitute checks.

The Board proposed to eliminate Appendix D and instead to incorporate into the regulation (and accompanying commentary) the industry indorsement standards for paper checks, substitute checks, and electronic checks, specifically American National Standard (ANS) Specifications for Physical Check Endorsements, X9.100–111 for a paper checks other than substitute checks; ANS Specifications for an Image Replacement Document, X9.100–140 for substitute checks; and ANS Specifications for Electronic Exchange of Check and Image Data—Domestic, X9.100–187 for electronic checks. The proposal did not amend § 229.35(b) or (c).

The Board proposed to state in the commentary that ANS X9.100–187 is an industry standard for handling checks electronically, but that multiple electronic check standards may exist that would enable a receiving bank to create a substitute check, and that the parties may agree to send and receive checks as electronic images and information that conform to a different standard.

The Board also proposed to include the portions of the current commentary that discuss allocation of liability in the commentary to the liability section (§ 229.38). The Board also proposed to move those portions of the commentary that discuss the obligations of banks that create a substitute check (''reconverting banks'') into the commentary to § 229.51(b), which sets out requirements for reconverting banks. The Board proposed to make clarifying changes throughout the proposed commentary to § 229.35. For example, in paragraph 5 of the commentary to § 229.35(b), the Board proposed to clarify the regulation's use of the term ''final settlement.''

Two commenters addressed the Board's proposal to eliminate Appendix D. One commenter, the group letter, recommended that the Board retain a version of Appendix D in order to clearly establish the responsibilities of banks with respect to indorsements. Specifically, the group letter stated that there have been growing problems in the check industry with banks not complying with the indorsement requirements in Appendix D. The group letter expressed concern that if Regulation CC simply incorporates by reference the check industry standards for the bank indorsement requirements, the problems of noncompliance would worsen. Another commenter agreed with the Board that eliminating the indorsement requirement in Appendix D would have little to no effect on the collection or return process.

The Board has adopted the proposed revisions to § 229.35 and the accompanying commentary with minor technical revisions to clarify industry standards referenced and to conform to the Board's retention of the expeditious return requirements, as described above. The Board has also removed references to carbon bands, as discussed below in § 229.38(d). The Boards believes that banks' processes related to substitute checks and applying indorsements and identifications electronically have become well-established since 2004, when the current indorsement standard in Appendix D became effective. Furthermore, industry standards set forth the specifics for how banks should indorse, or identify themselves. In the absence of any evidence that eliminating the indorsement requirement in Appendix D will result in a significant increase in noncompliance, the Board has determined that incorporating by reference the substance of the indorsement standards in § 229.35(a) is sufficient.

7. Section 229.36—Presentment and Issuance of Checks

a. Section 229.36(a)—Receipt of Electronic Checks

Current § 229.36(a) provides that a check payable at or through a paying bank is considered to be drawn on that bank for purposes of the expeditious return and notice of nonpayment requirements of Regulation CC. As discussed above, the Board proposed to move this provision to § 229.31, which contains other provisions related to paying banks. The Board proposed to add a new provision in § 229.36(a) to provide that a paying bank's receipt of an electronic check is governed by the paying bank's agreement with the presenting bank. The Board proposed to state in the related commentary that the terms of the agreement are determined by the parties and may include, for example, the electronic address or electronic receipt point at which the paying bank agrees to accept electronic checks, as well as when presentment occurs. The Board did not receive any comments with respect to this section and has adopted § 229.36(a) and the accompanying commentary with minor editorial changes.

b. Section 229.36(b)—Receipt of Paper Checks

Current § 229.36(b) describes the locations at which a check is considered received by the paying bank. The Board proposed amendments to this provision to specify that it applies to locations for accepting checks in paper form only, and to make non-substantive editorial changes. The Board also proposed revisions to the commentary to clarify how the provision applies to substitute checks and to delete the statement about the tradeoff between including an address on a check, versus simply stating the name of the bank to encourage acceptance outside a bank's local area, in light of the elimination of the distinction between local and nonlocal checks.

In addition, the Board proposed a new provision in the regulation to permit a bank to require that checks presented to it as a paying bank be separated from returned checks. This provision mirrors a similar provision in § 229.33(c)(2) that permits a depositary bank to require that returned checks be separated from forward-collection checks.

The Board did not receive any comments with respect to this section and has adopted § 229.36(b) and accompanying commentary with minor technical changes for clarity.

c. Section 229.36(c)—Liability of Bank During Forward Collection

Section 229.36(d) of Regulation CC currently provides that settlement between banks for the forward collection of a check are final when made, and sets out the chain of liability during forward collection. The Board did not propose any changes to this section, and it remains unchanged in the final rule, redesignated as § 229.36(c).

e. Section 229.36(d)—Same-Day Settlement

Section 229.36(f) of Regulation CC currently requires a paying bank to provide same-day settlement for checks presented in accordance with reasonable delivery requirements established by the paying bank and presented at a location designated by the paying bank by 8 a.m. (local time of the paying bank) on a business day.[57] The Board proposed to retain, without substantive change, the current same-day settlement provisions and to clarify that the provisions apply only to presentments of checks in paper form. Electronic check presentment would continue to be governed by the paying bank's agreement with the presenting bank. The Board also proposed to remove the requirement that a paying bank's designated location must be in a check-processing region consistent with the routing number on the check. As there is now only one national check-processing region, this provision is obsolete.

Seventeen commenters, including the group letter, addressed same-day settlement. The majority of commenters agreed with the retention of the same-day settlement rule, stating the terms of electronic presentment are already effectively governed by agreements between banks. These commenters also expressed concern that an electronic same-day settlement rule would require a bank to manage multiple electronic exchange agreements.

Four commenters supported the creation of an electronic same-day settlement rule.[58] These commenters stated that in today's mostly electronic environment, the current paper same-day settlement rule is no longer effective at addressing the competitive advantages the Federal Reserve Banks have compared to the private sector correspondent banks when presenting and settling checks to paying banks. Four commenters suggested that the Board sunset the paper same-day settlement rule altogether.

In the final rule, the Board has retained, without substantive change, the current same-day settlement provisions. The Board agrees with the majority of commenters that the terms of electronic presentment can be determined by banks' agreements, as they are under current industry practice. This is consistent with the approach generally taken elsewhere with respect to electronic checks. The Board believes that the paper same-day settlement rule remains relevant, even though the nation's check collection system is now virtually all-electronic, because of the negotiating leverage it provides presenting banks in obtaining electronic presentment agreements with paying banks.[59]

The Board has not adopted an electronic same-day settlement rule at this time. In response to the current proposal and the Board's 2011 proposal, many commenters voiced significant policy and operational concerns with the application of the same-day settlement rule to electronic checks. Moreover, in the absence of general industry standards, an electronic same-day settlement rule would need to address the implications of a paying bank communication or technical failure and prescribe technical specifications, such as communication protocols and security requirements.[60] Given the lack of industry consensus supporting an electronic same-day settlement rule and the practical challenges of crafting such a rule, the Board does not believe that the same-day settlement rule should be extended to cover electronic presentment at this time, but remains open to considering regulatory changes in the future that are broadly supported by the industry and foster the efficiency of the check collection system.

For these reasons, the Board has adopted § 229.36(f) and the accompanying commentary, redesignated as § 229.36(d), with minor editorial changes for clarity and to conform to the Board's retention of the expeditious return and notice of nonpayment requirements, as described above.

d. Section 229.36(e)—Issuance of Payable-Through Checks

Current § 229.36(e) contains requirements for information that must appear on payable-through checks to enable depositary banks to identify those checks as local or nonlocal. As there is now a single national check-processing region and all checks are local, these requirements are no longer necessary. The Board proposed to eliminate this subsection and its accompanying commentary. The Board did not receive any comments with respect to this section and is removing current § 229.36(e) and its accompanying commentary as proposed.

8. Section 229.37—Variation by Agreement

Regulation CC currently permits parties to vary by agreement the effect of the provisions in subpart C, and the commentary provides examples of situations where variation by agreement is permissible. The Board proposed to revise the examples of permissible variations by agreement listed in the commentary to this section if the Board were to eliminate either the expeditious return requirement or the notice of nonpayment requirement in its final rule. The Board also requested comment on the prevalence of a practice that involved a paying bank debiting its customer's account and partially settling with the presenting bank upon receipt of electronic information related to a check (prior to the actual presentment of an electronic image of the check) and whether such a practice should be included as an example of an impermissible variation by agreement.

The Board received three comments, including the group letter, on § 229.37. Two commenters, including the group letter, supported the Board's variation by agreement proposal and stated that the Board should not prohibit or limit the ability of banks to vary by agreement any of the provisions of subpart C in regards to electronic exchange relationships. Two commenters, including the group letter, stated that they were not aware of banks engaging in the practice that involved receiving electronic information with the check image to be delivered later. One commenter recommended that the warranty in proposed § 229.34(a)(1)(ii)—

[57] A paying bank may not charge presentment fees for checks—for example, by settling for less than the full amount of the checks—that are presented in accordance with same-day settlement requirements.

[58] One comment, received as part of the EGRPRA process, similarly supported an electronic same-day settlement rule.

[59] Some commenters have expressed concerns that private-sector presenting banks, unlike the Reserve Banks, have not been able to obtain electronic presentment agreements with a broad range of paying banks. As described in the Board's competitive impact analysis below, the Board believes a correspondent bank that decides to present checks to a paying bank irrespective of whether the bank agrees to electronic presentment, like the Reserve Banks do, should also be able to obtain such electronic presentment agreements.

[60] For example, an electronic same-day settlement rule may need to address circumstances in which a paying bank experiences a system failure that prevents the presenting bank from transmitting the electronic checks to the paying bank by the presentment deadline.

the warranty on duplicate presentment with respect to electronic checks and electronic returned checks—should not be able to be varied by agreement without further elaboration.

Because commenters stated that they were not aware of a practice that involves receiving electronic information with the check image to be delivered later, the Board did not adopt any revisions addressing such practices. The Board believes that banks should be allowed to vary by agreement the warranty in § 229.34(a)(1)(ii) as they are ultimately in the best position to determine the specific warranties and indemnities. The Board has not modified the current regulation or commentary, except for minor technical changes to clarify example 9 (previously example 10) and removing example 7 from the commentary, to reflect that only one check processing region exists today.

9. Section 229.38—Liability

a. Section 229.38(a)—Standard of Care, Liability, Damages

Section 229.38(a) of current Regulation CC requires banks to exercise ordinary care and act in good faith in complying with the requirements of subpart C of the regulation and sets forth the measure of damages for non-compliance. The Board proposed to retain the current provisions of this section, except that under Alternative 2 references to notices of nonpayment in the regulation and the accompanying commentary would be deleted.

The Board did not receive comments on proposed § 229.38(a). As the final rule retains the requirement for notices of nonpayment, the Board has not amended § 229.38(a) or its accompanying commentary other than corrections to cross-references corresponding to redesignated sections of the final rule-text.

b. Section 229.38(b)—Paying Bank's Failure To Make Timely Return

Regulation CC currently provides that a paying bank that fails to comply with both the expeditious return requirement and its return deadline under the UCC, Regulation J, or Regulation CC will be liable for one or the other but not both. The Board proposed to remove this provision and its accompanying commentary under Alternative 1, which did not contain an expeditious return requirement.

The Board did not receive comments on proposed § 229.38(b). As the final rule retains an expeditious return requirement, the Board has not amended § 229.38(b) or its accompanying commentary other than corrections to cross-references corresponding to redesignated sections of the final rule-text.

c. Section 229.38(c)—Comparative Negligence

Section 229.38(c) of current Regulation CC set forth a comparative negligence standard in the case where a person asserting a claim has not exercised ordinary care or acted in good faith in indorsing a check, accepting a returned check or notice of nonpayment, or otherwise. Under Alternative 2, the Board proposed to eliminate the references in the regulation and the commentary to notices of nonpayment. The Board did not receive comments on proposed § 229.38(c). As the final rule retains the requirement for notices of nonpayment, the Board has not amended § 229.38(c). The Board has revised the accompanying commentary to remove references and examples to carbon bands, and obscured or unreadable indorsements, as the Board recognizes that in a virtually all-electronic check collection and return environment such instances are exceedingly rare and unlikely to cause difficulty for paying banks in identifying the depositary bank. In doing so, the Board does not intend to change the application of § 229.38(c) or the outcome of such scenarios in the unlikely event that they actually occur.

d. Section 229.38(d)—Responsibility for Certain Aspects of Checks

Section 229.38(d)(1) sets forth the liabilities of banks in the check collection chain for marks on the check that obscure indorsements on the check. Specifically, a paying bank is responsible for damages resulting from an illegible indorsement to the extent that the condition of the check when issued by the paying bank or its customer adversely affected the ability of a bank to indorse the check legibly. By contrast, the depositary bank is liable to the extent the condition of the back of a check arising after issuance and prior to acceptance of the check by the depositary bank adversely affects the ability of a bank to indorse the check legibly. The current commentary provides examples of these liabilities with multiple references to the indorsement standard in Appendix D.

The Board did not propose any substantive amendments to § 229.38(d), but did propose changes to the accompanying commentary. In accordance with the proposed changes to § 229.35 (and the proposed elimination of Appendix D), the Board proposed to replace the references to Appendix D in the commentary with a specific reference to the appropriate industry standard. In addition, the Board proposed to move the substance of the discussion regarding liability for carbon band and similar marking on the back of a check from the commentary to § 229.35(a) to the commentary to § 229.38(d). The Board requested comment on whether its proposed revisions clarified liability for unreadable indorsements, as well as whether any checks still used carbon bands.

Section 229.38(d)(2) of Regulation CC currently makes drawee banks liable to the extent they issue payable-through checks that are payable through a bank located in a different check-processing region and that circumstance causes a delay in return. As there is now a single national check-processing region, this provision is obsolete, and the Board proposed to delete current § 229.38(d)(2) and its accompanying commentary.

One commenter, the group letter, stated that there is little or minimal usage of carbon bands on the back of checks and suggested that this text be deleted from the commentary. The Board has revised the accompanying commentary to remove references and examples to carbon bands and obscured or unreadable indorsements, as the Board recognizes that in a virtually all-electronic check collection and return environment such instances are exceedingly rare and unlikely to cause difficulty for paying banks in identifying the depositary bank. In doing so, the Board does not intend to change the application of § 229.38(d) or the outcome of such scenarios in the unlikely event that they actually occur. The Board has adopted the changes to § 229.38(d) otherwise as proposed.

e. Sections 229.38(e)–(h)

The Board did not propose changes to § 229.38(e) through (h) or the accompanying commentary. Those sections address circumstances where the time for bringing an action may be extended, clarify that the civil liability provisions of subpart B and the Act do not apply to subpart C, provide for jurisdiction in U.S. District Courts, and permit reliance on Board rulings. Sections 229.38(e) through (h) and the accompanying commentary remain unchanged in the Board's final rule.

10. Section 229.39—Insolvency of Bank

Current § 229.39 of Regulation CC addresses what happens when a paying bank, collecting bank, returning bank, or depositary bank suspends payments when a check is in the process of being

collected or returned. Current § 229.39(a) requires a receiver, trustee, or agent in charge of a closed bank to return a check to the transferor bank or customer that transferred the check if the check or returned check (1) is in, or comes into, the possession of the paying bank, collecting bank, depositary bank, or returning bank that suspends payment and (2) is not paid. This provision is similar to UCC 4–216(a).

Current § 229.39(b) and (c) provide banks with ''preferred'' claims against a paying bank, collecting bank, returning bank, or depositary bank with respect to checks or returned checks that are not returned by the receiver, trustee, or agent in charge of a closed bank. Currently, a bank that is prior to the paying bank in the collection chain has a claim against a paying bank that has ''finally paid'' (that is, has no legal right to return) the check, but suspends payment without making a settlement for the check that is or becomes final. Similarly, a bank that is prior to the depositary bank in the return chain has a claim against a depositary bank that has become obligated to pay the returned check. Regulation CC currently provides claims to banks in the collection or return chain that have not received settlement that is or becomes final from a collecting bank, paying bank, or returning bank that itself had received final settlement prior to suspending payments. These sections are derived from UCC 4–216(b).

Although both Regulation CC and the UCC use the term ''preferred claim,'' the Official Comment to the UCC provides that purpose of UCC 4–216 ''is not to confer upon banks, holders of items, or anyone else preferential positions in the event of bank failures over general depositors or any other creditors of the failed banks.'' Rather, UCC 4–216 is intended to fix the cut-off point at which an item has progressed far enough in the collection or return process where it is preferable to permit the item to continue the remaining collection or return process, rather than return the item and reverse the associated entries.[61]

The Board proposed to amend and combine sections 229.39(b) and (c) (and make conforming changes to the accompanying commentary) to clarify that the claims do not give a bank a preferential position over depositors or other creditors of the failed banks. The Board did not intend these changes to be substantive, but rather to more clearly reflect the intent to adopt the same rule as the UCC. The Board did not receive comments on these proposed clarifications. The Board has adopted these changes as proposed and made minor editorial changes to the corresponding commentary for clarity.

Current section 229.38(d) provides that a paying bank has a preferred claim against a presenting bank that breaches a settlement amount or encoding warranty. The Board intended that the claim be a preferred claim, putting the paying bank in the position of a secured creditor.[62] The Board requested comment on whether it should retain this preferred claim.

Two commenters, including the group letter, commented on this provision and supported retaining the preferred claim against the presenting bank in the event of a breach of warranty. The group letter stated that because financial institutions treat warranty claims as part of the original check payment that was previously settled to the presenting bank before receivership, the paying bank should have a preference for the warranty claim in receivership above other claims of the failed presenting bank. The other commenter stated that banks do not go through the normal bankruptcy process and that many check warranty claims are processed as ''with entry'' adjustments through the Federal Reserve or pursuant to the ECCHO rules. The commenter stated that there is an expectation that payments related to the failed bank should be allowed to fully process, including payment of warranty claims on checks cleared prior to such bank's failure. The Board has retained the preferred claim of the existing regulation and accompanying commentary in current § 229.39(d), redesignated as § 229.39(c).

The Board did not proposed changes to existing § 229.39(e), which provides that the suspension of payments by a bank does not prevent any settlement made by that bank from becoming final if finality occurs automatically upon the lapse of time or the occurrence of certain events. The Board has redesignated this provision and its accompanying commentary as § 229.38(d).

11. Section 229.40—Effect of Merger Transaction

Section 229.40 permits merged banks to be considered as separate banks for one year period following consummation of the merger. This section contained a special rule providing an extended period for mergers that occurred close to the century date change (mergers consummated on or after July 1, 1998, and before March 1, 2000). The Board proposed to remove the special rule as obsolete. The Board also proposed revisions to the examples of regulatory requirements that could be effected by the merger rule. The Board did not receive any comments on the proposal and has removed the special rule and made the commentary revisions with minor technical changes for clarity.

12. Section 229.41—Relation to State Law

Section 229.41 provides that subpart C of Regulation CC supersedes inconsistent provisions of state law, but only to the extent of the inconsistency. The Board did not proposes any revisions to the regulation or its accompanying commentary and these provisions are unchanged in the final rule.

13. Section 229.42—Exclusions

Section 229.42 provides that the expeditious return, notice of nonpayment, and same-day settlement requirements of subpart C do not apply to a check drawn on the U.S. Treasury, a U.S. Postal Service money order, or a check drawn on a state or unit of general local government that is not payable through or at a bank. The Board proposed revisions to this section and its accompanying commentary under both Alternatives 1 and 2 to align the provisions with the proposed elimination of the expeditious return requirement (Alternative 1) or the notice of nonpayment requirement (Alternative 2). As the final rule contains both of those requirements, the Board has not adopted any revisions to this section of the regulation and commentary other than corrections to cross-references corresponding to redesignated sections of the final rule-text.

14. Section 229.43—Checks Payable in Guam, American Samoa, and the Northern Mariana Islands

Section 229.43 sets forth the rules applicable to checks that are drawn on banks located in Guam, American Samoa, and the Northern Mariana Islands (Pacific island checks). These checks often bear U.S. routing numbers and are deposited in and collected by U.S. banks, although they do not meet the Regulation CC definition of ''check'' because they are not drawn on a U.S. bank. Consistent with the expansion of other provisions in the regulation to address electronic checks, the Board proposed expand the definition of ''Pacific Island check'' to include an

[61] UCC 4–216, cmt. 1.

[62] 57 FR 46596 (Oct. 14, 1992). The Board, however, did not intend this to be a ''preference'' under the Bankruptcy Code (*i.e.,* an avoidable transfer).

electronic image of or electronic information related to a demand draft drawn on a Pacific island bank. The Board also proposed two variations of the list of applicable regulatory provisions (and related commentary changes) that apply to Pacific Island checks, one for Alternative 1 and one for Alternative 2. The Board also proposed to revise the commentary to clarify that bank offices in Guam, American Samoa, and the Northern Mariana Islands are banks for purposes of the ''Check 21'' provisions in subpart D (but not subparts B or C) of the regulation, because the Check 21 Act includes those locations in the definition of ''state,'' whereas the EFA Act does not.

The Board did not receive any comments on the proposed changes to § 229.43 and its commentary. The Board has adopted a revised list of regulatory provisions applicable to Pacific Island checks to conform to the final rule's retention of both the expeditious return and the notice of nonpayment requirements. The Board has also revised the definition of ''Pacific Island check'' to reflect changes to the definition of electronic check discussed above and made corresponding changes to the commentary. The Board has adopted the other regulatory and commentary provisions as proposed.

D. Subpart D—Substitute Checks

1. Section 229.51—General Provisions Governing Substitute Checks

Section 229.51 of Regulation CC sets forth the requirements for a substitute check to be the legal equivalent of the original check. Currently, these provisions require, among other things, that the reconverting bank and truncating bank are identified in accordance with Appendix D of Regulation CC and ANS Specifications for an Image Replacement Document, X9.100–140 (ANS X9.100–140). As discussed above, the Board is removing Appendix D from Regulation CC and instead referring to industry standards, such as ANS X9.100–140. Accordingly, the Board proposed to make conforming changes to § 229.51, removing all references to Appendix D in the regulation and accompanying commentary and making non-substantive organizational revisions to the commentary. The Board did not receive any comments on § 229.51 and has adopted the proposed regulatory and commentary changes with non-substantive editorial corrections.

2. Section 229.52—Substitute Check Warranties

Section 229.52 of Regulation CC sets forth the warranties made by a bank that transfers, presents, or returns a substitute check for which it receives consideration.[63] The Board proposed revisions to this section to address the case where a bank rejects a check submitted for deposit (such as through an ATM) and sends back to its customer a substitute check (or a paper or electronic representation of a substitute check). That bank would not receive consideration for that check and therefore would give no warranties under current § 229.52 for the substitute check it created, rendering that substitute check ineligible for legal equivalence under § 229.51(a) (which equivalence requires a bank warranty). The Board proposed a new § 229.52(a)(2) and accompanying commentary to provide that the bank in the situation described above would make the warranties in § 229.52(a) regardless of whether the bank received consideration for the substitute check.

The proposed commentary explained that the bank that creates a substitute check to return to the customer in the scenario addressed by new § 229.52(a)(2) must identify itself on the front of the substitute check as the truncating bank and on the front and back of the check as the reconverting bank (but that the bank is not a depositary bank, collecting bank, or returning bank with respect to the check, nor does the bank's identification of itself on the back of the check as a reconverting bank constitute the bank's indorsement of the check). The proposed commentary also explained that a bank that is a truncating bank under § 229.2(eee)(2) because it accepts deposit of a check electronically might be subject to a claim by another depositary bank that accepts the original check for deposit, pursuant to proposed § 229.34(f).

The Board received one comment on these provisions, which supported the proposal. The Board has adopted the proposed changes to § 229.52 and its accompanying commentary with minor technical clarifications.

3. Section 229.53—Substitute Check Indemnity

Section 229.53 sets forth the indemnity provided by a bank that transfers, presents, or returns a substitute check and receives consideration for the check. For the reasons discussed above in § 229.52, the Board proposed to add a new paragraph to § 229.53(a) and accompanying commentary to provide for an indemnity to be given by a bank that rejects a check submitted for deposit and sends back to its customer a substitute check, but does not receive consideration for the check. The Board did not receive any comments on § 229.53 and has adopted the proposed changes to the regulation and commentary.

4. Section 229.54—Expedited Recredit for Consumers

Section 229.54 addresses a consumer's ability to make a claim for expedited recredit with respect to a substitute check. The Board proposed to update the cross-references in § 229.54 to reflect the adoption of new warranties for electronic checks, as detailed above § 229.34(a). The Board did not receive any comments on § 229.54 and has adopted the proposed changes to the commentary to update cross-references.

E. Appendix D

For the reasons stated in § 229.35 of this section-by-section analysis the Board has removed and reserved Appendix D.

V. Competitive Impact Analysis

The Board conducts a competitive impact analysis when it considers an operational or legal change, if that change would have a direct and material adverse effect on the ability of other service providers to compete with the Federal Reserve in providing similar services due to legal differences or due to the Federal Reserve's dominant market position deriving from such legal differences. All operational or legal changes having a substantial effect on payments-system participants will be subject to a competitive-impact analysis, even if competitive effects are not apparent on the face of the proposal. If such legal differences exist, the Board will assess whether the same objectives could be achieved by a modified proposal with lesser competitive impact or, if not, whether the benefits of the proposal (such as contributing to payments-system efficiency or integrity or other Board objectives) outweigh the materially adverse effect on competition.[64]

In general, the Board does not believe that the amendments to Regulation CC have a direct and material adverse effect on the ability of other service providers

[63] These warranties include a warranty that the substitute check meets the requirements for legal equivalence in § 229.51(a)(1) and (2) and a warranty that no bank will be asked to pay a check that has already been paid (the ''no double debit'' warranty).

[64] Federal Reserve Regulatory Service, 7–145.2.

to compete effectively with the Reserve Banks in providing similar services due to legal differences (the special case of the same-day settlement rule is discussed below). The amendments, which are intended to foster electronic check collection and return, apply to the Reserve Banks and private-sector service providers alike and do not affect the competitive position of private-sector presenting banks vis-à-vis the Reserve Banks.

Regulation CC's same-day settlement rule, which became effective in 1994, reduced (but did not eliminate) the Reserve Banks' competitive advantage with respect to presentment of paper checks. In 1998, the Board requested comment on whether the same-day settlement rule should be modified to reduce or eliminate the remaining legal disparities between correspondent banks and the Reserve Banks in the presentment and settlement of checks.[65] Commenters generally concluded that the drawbacks of reducing the remaining legal disparities outweighed any advantage to the Reserve Banks.[66] Based on an analysis of the comments, the Board did not propose amendments to the same-day settlement rule at that time to reduce or eliminate these remaining legal differences.

Because Regulation CC's same-day settlement rule does not apply to electronic checks, which are governed by agreement, the Board requested comment on whether to adopt an electronic same-day settlement rule in 2011 and again as part of the proposal in 2014. In both instances, commenters voiced significant policy and operational concerns with the application of the same-day settlement rule to electronic checks.

A small number of commenters expressed concerns that private-sector presenting banks have not been able to obtain electronic presentment agreements with a broad range of paying banks and stated that an electronic same-day settlement rule would allow private-sector collecting banks to compete more effectively with the Reserve Banks. The Board does not believe, however, that the Reserve Banks' ability to obtain electronic presentment agreements is attributable to legal differences. The Reserve Banks have adopted a business practice to present checks directly whether or not the bank agrees to accept presentment electronically, which provides an incentive for paying banks to accept electronic presentment. A correspondent bank that decides to present checks directly to a paying bank regardless of whether the bank agrees to electronic presentment should likewise be able to obtain such electronic presentment agreements. In many cases, however, correspondent banks have adjusted their back office operations to accommodate only electronic check presentments. The Board believes that these developments reflect business decisions of those correspondent banks rather than unfair competitive advantages of Reserve Banks.[67]

Moreover, in the absence of general industry standards, an electronic same-day settlement rule would need to address the implications of a paying bank communication or technical failure and prescribe technical specifications, such as communication protocols and security requirements. Given the lack of industry support for an electronic same-day settlement rule and the practical challenges of crafting such a rule, the Board has not extended the same-day settlement rule to cover electronic presentment.

The Board has retained the same-day settlement rule for the presentment of paper checks, even though the nation's check collection system is now virtually all-electronic, because of the negotiating leverage it provides presenting banks in obtaining electronic presentment agreements with paying banks. The Board remains open to considering regulatory changes broadly supported by the industry that reduce legal disparities between the Reserve Banks and private-sector collecting banks and foster the efficiency of the check collection system.

VI. The Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development Regulatory Improvement Act of 1994 requires that agency regulations that impose additional reporting, disclosure, and other requirements on insured depository institutions take effect on the first calendar quarter following publication in final form. 12 U.S.C. 4802(b). Consistent with the Riegle Community Development Act, this final rule is effective on July 1, 2018.

VII. Paperwork Reduction Act

Certain provisions of the final rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number is 7100–0235. In addition, as permitted by the PRA, the Board proposes to extend for three years, with revision, the Disclosure Requirements Associated with Availability of Funds and Collections of Checks (Regulation CC) (Reg CC; OMB No. 7100–0235). The Board reviewed the final rule under the authority delegated to the Board by the OMB.

The final rule contains requirements subject to the PRA. The revised disclosure requirements of this final rule are found in sections 229.31(c) and 229.33(h). Section 229.31(c) imposes a notice of nonpayment requirement on paying banks that determine not to pay a check, both paper and electronic, in the amount of $5,000 or more. Section 229.33(h) requires a depositary bank to notify its customer if the depositary bank receives a returned check, notice of nonpayment, or notice of recovery under section 229.35(b). The Board did not receive any specific comments on the PRA analysis.

The Board has a continuing interest in the public's opinions of collections of information. At any time, commenters may submit comments regarding the

[65] 63 FR 12700 (March 16, 1998). Under Regulation J, the Reserve Banks have the legal ability to obtain same-day settlement for items they present before the paying bank's cut-off hour (typically 2 p.m. local time), whereas the latest that a private-sector bank may present a paper check for same-day settlement is 8 a.m. local time under Regulation CC's same-day settlement rule. In addition, Reserve Banks receive settlement by debiting the Federal Reserve account of the paying bank or its designated correspondent settlement agent (autocharge), whereas the paying bank settles with a correspondent presenting bank by crediting the Reserve Bank account designated by the presenting bank (such as by Fedwire).

[66] 63 FR 68701 (Dec. 14, 1998). In particular, commenters expressed concern that extending correspondent banks' presentment deadline to 2 p.m. would disrupt paying banks' corporate cash management services and that moving the Reserve Banks' presentment deadline to earlier in the day would be undesirable because it would slow the collection of checks. In addition, commenters wanted to retain the efficiency of settling for Reserve Bank presentments by autocharge but did not want to extend to correspondent banks the ability to debit the paying bank's account.

[67] The Reserve Banks made significant investments in equipment for printing paper substitute checks to facilitate the implementation of the Check 21 Act. They continue to use these capabilities, particularly in the case of check returns, which over 600 endpoints still do not receive electronically. Correspondent banks have generally not made the same investments in printers to create substitute checks as have the Reserve Banks, but could easily do so, individually or collectively, to make paper presentment a realistic option without incurring a significant expense. Although it would not be desirable to increase the proportion of checks presented in paper form, correspondent banks' ability to present paper checks could likely create a sufficient incentive for paying banks to accept checks electronically.

burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551. A copy of the comments may also be submitted to the OMB desk officer (1) by mail to U.S. Office of Management and Budget, 725 17th Street NW., 10235, Washington, DC 20503; (2) by facsimile to 202–395–6974; or (3) by email to: *oira_submission@omb.eop.gov,* Attention, Federal Banking Agency Desk Officer.

A. Proposed Revision, With Extension, of the Following Information Collection

Title of Information Collection: Disclosure Requirements Associated with Availability of Funds and Collections of Checks (Regulation CC).

Agency form number: Reg CC.

OMB control number: 7100–0235.

Frequency of Response: Event-generated.

Affected Public: Businesses or other for-profit.

Respondents: State member banks and uninsured state branches and agencies of foreign banks.

Estimated annual burden hours: Specific availability policy disclosure and initial disclosures—8,308 hours; Notice in specific policy disclosure—34,895 hours; Notice of exceptions—99,700 hours; Locations where employees accept consumer deposits—249 hours; Annual notice of new ATMs—4,985 hours; Changes in policy—4,000 hours; Providing notice of nonpayment by paying bank—582 hours; Providing notifications to customer—6,148 hours; Expedited recredit for consumers—8,724 hours; Expedited recredit for banks—3,739 hours; Consumer awareness—4,985 hours; and Expedited recredit claim notice—6,231 hours.

Estimated average time per response: Specific availability policy disclosure and initial disclosures—1 minute; Notice in specific policy disclosure—3 minutes; Notice of exceptions—3 minutes; Locations where employees accept consumer deposits—15 minutes; Annual notice of new ATMs—5 hours; Changes in policy—20 hours; Providing notice of nonpayment by paying bank—1 minute; Providing notifications to customer—1 minute; Expedited recredit for consumers—15 minutes; Expedited recredit for banks—15 minutes; Consumer awareness—1 minute; and Expedited recredit claim notice—15 minutes.

Number of respondents: 997 respondents (100 respondents for changes in policy).

Abstract: Regulation CC requires commercial banks, savings associations, credit unions, and U.S. branches and agencies of foreign banks to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and potentially costly) overdrafts, and allow customers to compare the policies of different banks before deciding at which bank to deposit funds. The regulation also requires notice to the depositary bank and to a customer of nonpayment of a check. Model disclosure forms, clauses, and notices are appended to the regulation to ease compliance.

Current Action: Regulation CC currently requires a paying bank that determines not to pay a check in the amount of $2,500 or more. Return of the check itself satisfies the notice of nonpayment requirement if the return meets the timeframe requirement for the notice. Under the Board's final rule, a paying bank is required to provide a notice of nonpayment if a paying bank determines not a pay a check in the amount of $5,000 or more. (Return of the check itself would continue to satisfy the notice requirement if the return meets the timeframe requirement for notice.) The Board therefore expects that its final rule will reduce the number of notices that paying banks send.

Regulation CC also currently requires a depositary bank to notify its customer when it receives a returned check or notice of nonpayment related to that customer's account. The final rule requires that the depositary bank notify its customer when the bank receives a notice of recovery under 229.35(b). The Board does not expect that this new requirement will significantly affect the burden of depositary banks.

VIII. Regulatory Flexibility Act

An initial regulatory flexibility analysis (IRFA) was included in the proposal in accordance with section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA). In the IRFA, the Board requested comment on all aspects of the IRFA, and, in particular, comments on the cost of the proposed expeditious return rules to small depository institutions. The Board also requested comments on any approaches, other than the proposed alternatives, that would reduce the burden on all entities. Finally, the Board requested comments on any significant alternatives that would minimize the impact of the proposal on small entities.

The RFA requires an agency to prepare a final regulatory flexibility analysis (FRFA) unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. In accordance with section 3(a) of the RFA, the Board has reviewed the final regulation. The final rule applies to all depository institutions. The Board has prepared the following FRFA pursuant to the RFA.

B. Statement of the Need for, and Objectives of, the Final Rule

The Board is finalizing the foregoing amendments to Regulation CC pursuant to its authority under the EFA Act and the Check 21 Act. The final rule reflects the substantial transition in the collection of checks from a largely paper-based process to one that is virtually all-electronic. The full benefits and cost savings of the electronic check-processing methods facilitated by the Check 21 Act cannot be realized so long as some banks continue to employ paper-processing methods. The objective of the final rule is to encourage all banks to collect and return checks electronically.

C. Description of Small Entities Affected by the Final Rule

The final rule would apply to all depository institutions regardless of their size.[68] Pursuant to regulations issued by the Small Business Administration (13 CFR 121.201), a ''small banking organization'' includes a depository institution with $550 million or less in total assets. Based on call report data as of December 2016, there are approximately 10,185 depository institutions that have total domestic assets of $550 million or less and thus are considered small entities for purposes of the RFA. Based on data regarding checks returned through the Reserve Banks, the Board estimates that by the beginning of 2017, approximately 89 percent of small depository institutions have arrangements to receive returned checks electronically, whereas 11 percent (approximately 500 small depository institutions) had not.

[68] The final rule would not impose costs on any small entities other than depository institutions.

D. Summary of Significant Issues Raised by Public Comments in Response to the Board's IRFA, the Board's Assessment of Such Issues, and a Statement of Any Changes Made as a Result of Such Comments

The Board did not receive any comments explicitly in response to the IRFA in the proposed rule. Commenters, however, discussed the proposed rule's impact on small entities. Some commenters expressed concerns that the proposed expeditious return requirements, both Alternatives 1 and 2, would penalize small entities that still require paper returns. Some commenters also stated that the Board's proposed remote deposit capture indemnity would be too burdensome on small institutions and discourage them from offering the service to its customers.

In the final rule, as described in detail above, the Board adopted an expeditious return requirement that incorporates elements of both alternatives that had been proposed. The final rule's expeditious return requirement is intended to encourage the broadest possible implementation of electronic check return for those remaining institutions still using paper. A small depositary bank that currently receives returned checks in paper form and that chooses to begin to receive returned checks electronically will incur some cost associated with that transition. As explained in more detail below, the Board continues to expect that these costs would be relatively low for a small depositary bank, which typically would receive only a small volume of returned checks. Under the final rule, small depositary banks may also choose to accept only paper returns; however, they will not be able to make a claim against the paying bank or returning bank that a check was not returned expeditiously. The Board expects that each small depositary bank will weigh the costs and benefits of whether to accept returns electronically.

In the final rule, the Board adopted the proposed remote deposit capture indemnity, with an added exception. Some of the commenters that stated the proposed remote capture indemnity would cause small entities to stop offering remote capture indemnity suggested that the Board incorporate a provision such that a depositary bank that accepts an original check containing a restrictive indorsement inconsistent with the means of deposit should not be able to make an indemnity claim. The Board has added this exception to the indemnity and associated commentary, as described in detail above. A depository institution, whether small or large, that accepts a check via remote deposit capture can protect itself through rules and safeguards with respect to the actions of its own customer and is in the best position to guard against the subsequent deposit of the paper check.

E. Projected Reporting, Recordkeeping, and Other Compliance Requirements

By conditioning the depositary bank's ability to make an expeditious return claim on whether it has commercially reasonable arrangements in place to receive the returned check electronically, the final rule would encourage, but not require, depositary banks to accept check returns in electronic form. As stated above, a depositary bank that currently receives returned checks in paper form and that chooses to begin to receive returned checks electronically will incur some cost associated with that transition. The Board continues to expect that these costs would be relatively low for a small depositary bank, which typically would receive only a small volume of returned checks. For example, the Federal Reserve Banks offer a product under which they deliver electronically to small depositary banks copies (.pdf files) of returned checks, which the banks can print on their own premises if necessary.[69] To receive returned checks in this fashion, a depositary bank may need to establish an electronic connection to a Reserve Bank, or another returning bank that offers a similar service, and to purchase certain equipment, such as a printer capable of double-sided printing and magnetic-ink toner cartridges. Depending on the volume of returned checks that a small depositary bank receives, the Board continues to estimate that this transition would cost a small depositary bank approximately $3,000 annually.[70]

Conversely, a small depositary bank that does not choose to accept returned checks electronically would, under the final rule, incur additional risk associated with that decision. Specifically, if a paper returned check is not delivered to the bank in a timely fashion, the bank might make funds available to its depositor before learning whether the check has been returned unpaid. A depositary bank that has no arrangements in place to accept returned checks electronically will be unable to make an expeditious return claim against the paying bank or returning bank. As stated above, it is reasonable to expect that each small depositary bank will weigh the costs and benefits of whether to accept returns electronically. If the bank determines that the net present value of the risk is greater than the cost to receive returned checks electronically, then the bank can minimize its cost associated with the Board's rule by making arrangements to accept returned checks electronically, directly or indirectly, by commercially reasonable means from the paying bank or returning bank.

Any costs to a small depositary bank that may result from the rule will be offset to some extent by savings to the bank in other areas. For example, receiving returned checks electronically may enable a small bank to reduce its ongoing operating costs associated with receiving and processing returned checks.

Regulation CC currently requires a paying bank that determines not to pay a check in the amount of $2,500 or more to provide notice of nonpayment such that the notice is received by the depositary bank by 4 p.m. (local time) on the second business day following the banking day on which the check was presented to the paying bank. Return of the check itself satisfies the notice of nonpayment requirement if the return meets the timeframe requirement for the notice. Under the Board's final rule, a paying bank is required to provide a notice of nonpayment if a paying bank determines not a pay a check in the amount of $5,000 or more. (Return of the check itself would continue to satisfy the notice requirement if the return meets the timeframe requirement for notice.) The Board therefore expects that its final rule will reduce the number of notices that paying banks send.

The final rule also requires that the paying bank send a notice of nonpayment such that the notice or check would normally be received by the depositary bank by 2 p.m. local time of the depositary bank, as opposed to the currently required 4 p.m. local time, on the second business day following the banking day of presentment. This earlier required time for receipt by the depositary bank may impose additional cost on the paying bank sending notice or returned check. However, any

[69] After printing the .pdf files, the depositary bank would be able to process the checks exactly as it would process paper checks physically delivered to it.

[70] This estimate takes into account the cost to a small depositary bank to establish and maintain an electronic connection to a Reserve Bank, which is estimated to be $190 per month. See 81 FR 75058 (Oct. 28, 2016). Some small banks already have such a connection. Further, a small depositary bank may choose to receive its returns electronically in a manner that does not require this connection, such as through a banker's bank, corporate credit union, or nonbank processor.

increased cost to a paying bank associated with delivering a notice or returned check by the earlier time may not be material depending on a bank's current processing schedules, and it may be offset by reduced depositary bank losses associated with checks that are returned unpaid. Furthermore, the Board does not expect the earlier required time to incur any additional cost for paying banks that rely on the return of the check to satisfy its notice of nonpayment requirement because both must be sent such that the notice or check would normally be received by the depositary bank by 2 p.m. on the second business day following the banking day of presentment.

Regulation CC currently applies only to paper checks. In the final rule, the Board is amending Regulation CC to create a regulatory framework for the collection and return of electronic images and electronic information. This framework includes applying existing paper-check warranties and the Check-21-like warranties to electronic checks and electronic returned checks. These warranties include, for example, the returned-check warranties; the notice of nonpayment warranties; the settlement amount, encoding, and offset warranties; and the transfer and presentment warranties related to a remotely created check. These warranties can be varied by agreement between banks. The Board does not expect depository institutions to incur extra costs associated with these changes, as in many cases these or similar warranties are generally included in interbank agreements for electronic image exchange or in clearinghouse rules. In addition, while the new warranties impose liabilities on the warranting entities, the Board believes that the current practices of most institutions in the check collection chain are consistent with the warranties and does not expect that warranting entities will need to take any additional steps to protect themselves.

The Board has adopted in the final rule indemnities for electronically-created items and remote deposit capture, as described fully above. The Board believes that these indemnities place appropriate incentives on the parties best positioned to minimize risk. The Board finds that it is reasonable to expect that small depositary banks will weigh the costs and benefits associated with transferring electronically-created items, as well as offering remote deposit capture, and take the appropriate precautions to limit risk.

For example, a depositary bank that is unsure whether an electronically-created item was authorized may choose not to accept the item for deposit. A bank that does accept such an item and sends it for collection accepts the risk that it may be required to indemnify a subsequent bank collecting bank from any losses due to the fact that the item was not authorized. Similarly, a bank that offers remote deposit capture may require that the customer indorse the check with the words ''for mobile deposit only'' before capturing the check or take other steps to protect against a deposit of the original check. The Board believes that these indemnities will provide basic protections for banks handling electronically-created items and help prevent multiple deposits of the same item.

F. Significant Alternatives to the Proposed Rule

As discussed above in this **Federal Register** notice and in the 2011 and 2014 proposals, the Board has extensively considered possible alternatives to the expeditious return requirement and framework for electronic checks. As explained in detail in the preamble, the Board believes that the other alternatives would either impose greater costs on small entities than would this final rule, or would be less effective in providing appropriate incentives for electronic check collection.

List of Subjects in 12 CFR Part 229

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 229 as follows:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001–4010, 12 U.S.C. 5001–5018.

Subpart A—General

■ 2. In § 229.1, paragraph (b)(3) is revised and paragraphs (b)(5) through (10) are added to read as follows:

§ 229.1 Authority and purpose; organization

* * * * *

(b) * * *

(3) Subpart C of this part contains rules to expedite the collection and return of checks and electronic checks by banks. These rules cover the direct return of checks and electronic checks, the manner in which the paying bank and returning banks must return checks and electronic checks to the depositary bank, notification of nonpayment by the paying bank, indorsement and presentment of checks and electronic checks, same-day settlement for certain checks, the liability of banks for failure to comply with subpart C of this part, and other matters.

* * * * *

(5) Appendix A of this part contains a routing number guide to next day-availability checks. The guide lists the routing numbers of checks drawn on Federal Reserve Banks and Federal Home Loan Banks, and U.S. Treasury checks and Postal money orders that are subject to next-day availability.

(6) Appendix B of this part is reserved.

(7) Appendix C of this part contains model funds-availability policy disclosures, clauses, and notices and a model disclosure and notices related to substitute-check policies.

(8) Appendix D of this part is reserved.

(9) Appendix E of this part contains Board interpretations, which are labeled ''Commentary,'' of the provisions of this part. The Commentary provides background material to explain the Board's intent in adopting a particular part of the regulation and provides examples to aid in understanding how a particular requirement is to work. The Commentary is an official Board interpretation under section 611(e) of the EFA Act (12 U.S.C. 4010(e)).

(10) Appendix F of this part contains the Board's determinations of the EFA Act and Regulation CC's preemption of state laws that were in effect on September 1, 1989.

■ 3. In § 229.2, paragraphs (dd), (uu), (vv), and (bbb) are revised and paragraphs (ggg) and (hhh) are added to read as follows:

§ 229.2 Definitions

* * * * *

(dd) *Routing number* means—

(1) The number printed on the face of a check in fractional form on in nine-digit form;

(2) The number in a bank's indorsement in fractional or nine-digit form; or

(3) For purposes of subpart C and subpart D, the bank-identification number contained in an electronic check or electronic returned check.

* * * * *

(uu) *Indemnifying bank.* Indemnifying bank means—

(1) For the purposes of § 229.34, a bank that provides an indemnity under

§ 229.34 with respect to remote deposit capture or an electronically-created item, or

(2) For the purposes of § 229.53, a bank that provides an indemnity under § 229.53 with respect to a substitute check.

(vv) *Magnetic ink character recognition line* and *MICR line* mean the numbers, which may include the routing number, account number, check number, check amount, and other information, that are (unless the Board by rule or order determines that different standards apply)—

(1) Printed near the bottom of a check in magnetic ink in accordance with American National Standard Specifications for Placement and Location of MICR Printing, X9.13 (hereinafter ANS X9.13) for an original check and American National Standard Specifications for an Image Replacement Document— IRD, X9.100–140 (hereinafter ANS X9.100–140) for a substitute check, or

(2) For purposes of subpart C and subpart D, contained in a record specified for MICR line data in an electronic check or electronic returned check in accordance with American National Standard Specifications for Electronic Exchange of Check Image Data—Domestic, X9.100–187 (hereinafter ANS X9.100—187).

* * * * *

(bbb) *Copy and sufficient copy.* (1) A *copy of an original check* means—

(i) Any paper reproduction of an original check, including a paper printout of an electronic image of the check, a photocopy of the original check, or a substitute check; or

(ii) Any electronic reproduction of a check that a recipient has agreed to receive from the sender instead of a paper reproduction.

(2) A *sufficient copy* is a copy of an original check that accurately represents all of the information on the front and back of the original check as of the time the original check was truncated or is otherwise sufficient to determine whether or not a claim is valid.

* * * * *

(ggg) *Electronic check* and *electronic returned check* mean an electronic image of, and electronic information derived from, a paper check or paper returned check, respectively, that—

(1) Is sent to a receiving bank pursuant to an agreement between the sender and the receiving bank; and

(2) Conforms with ANS X9.100–187, unless the Board by rule or order determines that a different standard applies or the parties otherwise agree.

(hhh) *Electronically-created item* means an electronic image that has all the attributes of an electronic check or electronic returned check but was created electronically and not derived from a paper check.

Subpart C—Collection of Checks

■ 4. Section 229.30 is revised to read as follows:

§ 229.30 Electronic checks and electronic information.

(a) *Checks under this subpart.* Electronic checks and electronic returned checks are subject to this subpart as if they were checks or returned checks, except where ''paper check'' or ''paper returned check'' is specified. For the purposes of this subpart, the term ''check'' or ''returned check'' as used in Subpart A includes ''electronic check'' or ''electronic returned check,'' except where ''paper check'' or ''paper returned check'' is specified.

(b) *Writings.* If a bank is required to provide information in writing under this subpart, the bank may satisfy that requirement by providing the information electronically if the receiving bank agrees to receive that information electronically.

■ 5. Section 229.31 is revised to read as follows:

§ 229.31 Paying bank's responsibility for return of checks and notices of nonpayment.

(a) *Return of checks.* (1) Subject to the requirement of expeditious return under paragraph (b) of this section, a paying bank may send a returned check to the depositary bank, to any other bank agreeing to handle the returned check, or as provided in paragraph (a)(2) of this section.

(2) A paying bank that is unable to identify the depositary bank with respect to a check may send the returned check to any bank that handled the check for forward collection and must advise the bank to which the check is sent that the paying bank is unable to identify the depositary bank.

(3) A paying bank may convert a check to a qualified returned check. A qualified returned check shall be encoded in magnetic ink with the routing number of the depositary bank, the amount of the returned check, and a ''2'' in the case of an original check (or a ''5'' in the case of a substitute check) in position 44 of the qualified return MICR line as a return identifier. A qualified returned original check shall be encoded in accordance with ANS X9.13, and a qualified returned substitute check shall be encoded in accordance with ANS X9.100–140.

(4) Except as provided in paragraph (g) of this section, this section does not affect a paying bank's responsibility to return a check within the deadlines required by the UCC or Regulation J (12 CFR part 210).

(b) *Expeditious return of checks.* (1) Except as provided in paragraph (d) of this section, if a paying bank determines not to pay a check, it shall return the check in an expeditious manner such that the check would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank.

(2) If the second business day following the banking day on which the check was presented to the paying bank is not a banking day for the depositary bank, the paying bank satisfies the expeditious return requirement if it sends the returned check in a manner such that the depositary bank would normally receive the returned check not later than 2 p.m. (local time of the depositary bank) on the depositary bank's next banking day.

(c) *Notice of nonpayment.* (1) If a paying bank determines not to pay a check in the amount of $5,000 or more, it shall provide notice of nonpayment such that the notice would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank. If the day the paying bank is required to provide notice is not a banking day for the depositary bank, receipt of notice not later than 2 p.m. (local time of the depositary bank) on the depositary bank's next banking day constitutes timely notice. Notice may be provided by any reasonable means, including the returned check, a writing (including a copy of the check), or telephone.

(2)(i) To the extent available to the paying bank, notice must include the information contained in the check's MICR line when the check is received by the paying bank, as well as—

(A) Name of the payee(s);

(B) Amount;

(C) Date of the indorsement of the depositary bank;

(D) The bank name, routing number, and trace or sequence number associated with the indorsement of the depositary bank; and

(E) Reason for nonpayment.

(ii) If the paying bank is not sure of the accuracy of an item of information, it shall include the information required by this paragraph to the extent possible,

and identify any item of information for which the bank is not sure of the accuracy.

(iii) The notice may include other information from the check that may be useful in identifying the check being returned and the customer.

(d) *Exceptions to the expeditious return of checks and notice of nonpayment requirements.* The expeditious return and notice of nonpayment requirements of paragraphs (b) and (c) of this section do not apply if—

(1) The check is deposited in a depositary bank that is not subject to subpart B of this part; or

(2) A paying bank is unable to identify the depositary bank with respect to the check.

(e) *Identification of returned check.* A paying bank returning a check shall clearly indicate on the front of the check that it is a returned check and the reason for return. If the paying bank is returning a substitute check or an electronic returned check, the paying bank shall include this information such that the information would be retained on any subsequent substitute check.

(f) *Notice in Lieu of Return.* If a check is unavailable for return, the paying bank may send in its place a copy of the front and back of the returned check, or, if no such copy is available, a written notice of nonpayment containing the information specified in paragraph (c)(2) of this section. The copy or written notice shall clearly state that it constitutes a notice in lieu of return. A notice in lieu of return is considered a returned check subject to the requirements of this subpart.

(g) *Extension of deadline.* The deadline for return or notice of dishonor or nonpayment under the UCC or Regulation J (12 CFR part 210), or § 229.36(d)(3) and (4) is extended to the time of dispatch of such return or notice if the depositary bank (or the receiving bank, if the depositary bank is unidentifiable) receives the returned check or notice—

(1) On or before the depositary bank's (or receiving bank's) next banking day following the otherwise applicable deadline by the earlier of the close of that banking day or a cutoff hour of 2 p.m. (local time of the depositary bank or receiving bank) or later set by the depositary bank (or receiving bank) under UCC 4–108, for all deadlines other than those described in paragraph (g)(2) of this section; or

(2) Prior to the cut-off hour for the next processing cycle (if sent to a returning bank), or on the next banking day (if sent to the depositary bank), for a deadline falling on a Saturday that is a banking day (as defined in the UCC) for the paying bank.

(h) *Payable-through and payable-at checks.* A check payable at or through a paying bank is considered to be drawn on that bank for purposes of the expeditious return and notice of nonpayment requirements of this subpart.

(i) *Reliance on routing number.* A paying bank may return a returned check based on any routing number designating the depositary bank appearing on the returned check in the depositary bank's indorsement.

■ 6. Section 229.32 is revised to read as follows:

§ 229.32 Returning bank's responsibility for return of checks.

(a) *Return of checks.* (1) Subject to the requirement of expeditious return under paragraph (b) of this section, a returning bank may send a returned check to the depositary bank, to any other bank agreeing to handle the returned check, or as provided in paragraph (a)(2) of this section.

(2) A returning bank that is unable to identify the depositary bank with respect to a check may send the returned check to any collecting bank that handled the returned check for forward collection if the returning bank was not a collecting bank with respect to the returned check, or to a prior collecting bank, if the returning bank was a collecting bank with respect to the returned check. A returning bank sending a returned check under this paragraph to a bank must advise the bank to which the returned check is sent that the returning bank is unable to identify the depositary bank.

(3) A returning bank may convert a check to a qualified returned check. A qualified returned check shall be encoded in magnetic ink with the routing number of the depositary bank, the amount of the returned check, and a ''2'' in the case of an original check (or a ''5'' in the case of a substitute check) in position 44 of the qualified return MICR line as a return identifier. A qualified returned original check shall be encoded in accordance with ANS X9.13, and a qualified returned substitute check shall be encoded in accordance with ANS X9.100–140.

(b) *Expeditious return of checks.* (1) Except as provided in paragraph (c) of this section, a returning bank shall return a returned check in an expeditious manner such that the check would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank.

(2) If the second business day following the banking day on which the check was presented to the paying bank is not a banking day for the depositary bank, the returning bank satisfies the expeditious return requirement if it sends the returned check in a manner such that the depositary bank would normally receive the returned check not later than 2 p.m. (local time of the depositary bank) on the depositary bank's next banking day.

(c) *Exceptions to the expeditious return of checks.* The expeditious return requirement of paragraph (b) of this section does not apply if—

(1) The check is deposited in a depositary bank that is not subject to subpart B of this part;

(2) A paying bank is unable to identify the depositary bank with respect to the check; or

(3) The bank handles a misrouted returned check pursuant to § 229.33(f).

(d) *Notice in Lieu of Return.* If a check is unavailable for return, the returning bank may send in its place a copy of the front and back of the returned check, or, if no such copy is available, a written notice of nonpayment containing the information specified in § 229.31(c). The copy or written notice shall clearly state that it constitutes a notice in lieu of return. A notice in lieu of return is considered a returned check subject to the requirements of this section and the other requirements of this subpart.

(e) *Settlement.* A returning bank shall settle with a bank sending a returned check to it for return by the same means that it settles or would settle with the sending bank for a check received for forward collection drawn on the depositary bank. This settlement is final when made.

(f) *Charges.* A returning bank may impose a charge on a bank sending a returned check for handling the returned check.

(g) *Reliance on routing number.* A returning bank may return a returned check based on any routing number designating the depositary bank appearing on the returned check in the depositary bank's indorsement or in magnetic ink on a qualified returned check.

■ 7. Section 229.33 is revised to read as follows:

§ 229.33 Depositary bank's responsibility for returned checks and notices of nonpayment.

(a) *Right to assert claim.* (1) A paying bank or returning bank may be liable to a depositary bank under § 229.38 for failing to return a check in an

expeditious manner only if the depositary bank has arrangements in place such that the paying bank or returning bank could return a returned check to the depositary bank electronically, directly or indirectly, by commercially reasonable means.

(2) For purposes of paragraph (a)(1) of this section, the depositary bank that has asserted a claim has the burden of proof for demonstrating that the depositary bank's arrangements meet the standard of paragraph (a)(1).

(b) *Acceptance of electronic returned checks and electronic notices of nonpayment.* A depositary bank's agreement with the transferor bank governs the terms under which the depositary bank will accept electronic returned checks and electronic written notices of nonpayment.

(c) *Acceptance of paper returned checks and paper notices of nonpayment.* (1) A depositary bank shall accept paper returned checks and paper notices of nonpayment during its banking day—

(i) At a location, if any, at which presentment of paper checks for forward collection is requested by the depositary bank; and

(ii)(A) At a branch, head office, or other location consistent with the name and address of the bank in its indorsement on the check;

(B) If no address appears in the indorsement, at a branch or head office associated with the routing number of the bank in its indorsement on the check; or

(C) If no routing number or address appears in its indorsement on the check, at any branch or head office of the bank.

(2) A depositary bank may require that paper returned checks be separated from paper forward collection checks.

(d) *Acceptance of oral notices of nonpayment.* A depositary bank shall accept oral notices of nonpayment during its banking day—

(1) At the telephone number indicated in the indorsement; and

(2) At any other number held out by the bank for receipt of notice of nonpayment.

(e) *Payment.* (1) A depositary bank shall pay the returning bank or paying bank returning the check to it for the amount of the check prior to the close of business on the depositary bank's banking day on which it received the check (''payment date'') by—

(i) Debit to an account of the depositary bank on the books of the returning bank or paying bank;

(ii) Cash;

(iii) Wire transfer; or

(iv) Any other form of payment acceptable to the returning bank or paying bank.

(2) The proceeds of the payment must be available to the returning bank or paying bank in cash or by credit to an account of the returning bank or paying bank on or as of the payment date. If the payment date is not a banking day for the returning bank or paying bank or the depositary bank is unable to make the payment on the payment date, payment shall be made by the next day that is a banking day for the returning bank or paying bank. These payments are final when made.

(f) *Misrouted returned checks and written notices of nonpayment.* If a bank receives a returned check or written notice of nonpayment on the basis that it is the depositary bank, and the bank determines that it is not the depositary bank with respect to the check or notice, it shall either promptly send the returned check or notice to the depositary bank directly or by means of a returning bank agreeing to handle the returned check or notice, or send the check or notice back to the bank from which it was received.

(g) *Charges.* A depositary bank may not impose a charge for accepting and paying checks being returned to it.

(h) *Notification to customer.* If the depositary bank receives a returned check, notice of nonpayment, or notice of recovery under § 229.35(b), it shall send or give notice to its customer of the facts by midnight of the banking day following the banking day on which it received the returned check, notice of nonpayment, or notice of recovery, or within a longer reasonable time.

(i) *Depositary bank without accounts.* The requirements of this section with respect to notices of nonpayment do not apply to checks deposited in a depositary bank that does not maintain accounts.

■ 8. Section 229.34 is revised to read as follows:

§ 229.34 Warranties and indemnities.

(a) *Warranties with respect to electronic checks and electronic returned checks.* (1) Each bank that transfers or presents an electronic check or electronic returned check and receives a settlement or other consideration for it warrants that—

(i) The electronic image accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated and the electronic information includes an accurate record of all MICR line information required for a substitute check under § 229.2(aaa) and the amount of the check, and

(ii) No person will receive a transfer, presentment, or return of, or otherwise be charged for an electronic check or electronic returned check, the original check, a substitute check, or a paper or electronic representation of a substitute check such that the person will be asked to make payment based on a check it has already paid.

(2) Each bank that makes the warranties under paragraph (a)(1) of this section makes the warranties to—

(i) In the case of transfers for collection or presentment, the transferee bank, any subsequent collecting bank, the paying bank, and the drawer; and

(ii) In the case of transfers for return, the transferee returning bank, any subsequent returning bank, the depositary bank, and the owner.

(b) *Transfer and presentment warranties with respect to a remotely created check.* (1) A bank that transfers or presents a remotely created check and receives a settlement or other consideration warrants to the transferee bank, any subsequent collecting bank, and the paying bank that the person on whose account the remotely created check is drawn authorized the issuance of the check in the amount stated on the check and to the payee stated on the check. For purposes of this paragraph (b)(1), ''account'' includes an account as defined in § 229.2(a) as well as a credit or other arrangement that allows a person to draw checks that are payable by, through, or at a bank.

(2) If a paying bank asserts a claim for breach of warranty under paragraph (b)(1) of this section, the warranting bank may defend by proving that the customer of the paying bank is precluded under UCC 4–406, as applicable, from asserting against the paying bank the unauthorized issuance of the check.

(c) *Settlement amount, encoding, and offset warranties.* (1) Each bank that presents one or more checks to a paying bank and in return receives a settlement or other consideration warrants to the paying bank that the total amount of the checks presented is equal to the total amount of the settlement demanded by the presenting bank from the paying bank.

(2) Each bank that transfers one or more checks or returned checks to a collecting bank, returning bank, or depositary bank and in return receives a settlement or other consideration warrants to the transferee bank that the accompanying information, if any, accurately indicates the total amount of the checks or returned checks transferred.

(3) Each bank that presents or transfers a check or returned check warrants to any bank that subsequently handles it that, at the time of presentment or transfer, the information

encoded after issue regarding the check or returned check is accurate. For purposes of this paragraph, the information encoded after issue regarding the check or returned check means any information that could be encoded in the MICR line of a paper check.

(4) If a bank settles with another bank for checks presented, or for returned checks for which it is the depositary bank, in an amount exceeding the total amount of the checks, the settling bank may set off the excess settlement amount against subsequent settlements for checks presented, or for returned checks for which it is the depositary bank, that it receives from the other bank.

(d) *Returned check warranties.* (1) Each paying bank or returning bank that transfers a returned check and receives a settlement or other consideration for it warrants to the transferee returning bank, to any subsequent returning bank, to the depositary bank, and to the owner of the check, that—

(i) The paying bank, or in the case of a check payable by a bank and payable through another bank, the bank by which the check is payable, returned the check within its deadline under the UCC or § 229.31(g) of this part;

(ii) It is authorized to return the check;

(iii) The check has not been materially altered; and

(iv) In the case of a notice in lieu of return, the check has not and will not be returned.

(2) These warranties are not made with respect to checks drawn on the Treasury of the United States, U.S. Postal Service money orders, or checks drawn on a state or a unit of general local government that are not payable through or at a bank.

(e) *Notice of nonpayment warranties.* (1) Each paying bank that gives a notice of nonpayment warrants to the transferee bank, to any subsequent transferee bank, to the depositary bank, and to the owner of the check that—

(i) The paying bank, or in the case of a check payable by a bank and payable through another bank, the bank by which the check is payable, returned or will return the check within its deadline under the UCC or § 229.31(g) of this part;

(ii) It is authorized to send the notice; and

(iii) The check has not been materially altered.

(2) These warranties are not made with respect to checks drawn on the Treasury of the United States, U.S. Postal Service money orders, or check drawn on a state or a unit of general local government that are not payable through or at a bank.

(f) *Remote deposit capture indemnity.* (1) The indemnity described in paragraph (f)(2) of this section is provided by a depositary bank that—

(i) Is a truncating bank under § 229.2(eee)(2) because it accepts deposit of an electronic image or other electronic information related to an original check;

(ii) Does not receive the original check;

(iii) Receives settlement or other consideration for an electronic check or substitute check related to the original check; and

(iv) Does not receive a return of the check unpaid.

(2) A bank described in paragraph (f)(1) of this section shall indemnify, as set forth in § 229.34(i), a depositary bank that accepts the original check for deposit for losses incurred by that depositary bank if the loss is due to the check having already been paid.

(3) A depositary bank may not make an indemnity claim under paragraph (f)(2) of this section if the original check it accepted for deposit bore a restrictive indorsement inconsistent with the means of deposit.

(g) *Indemnities with respect to electronically-created items.* Each bank that transfers or presents an electronically-created item and receives a settlement or other consideration for it shall indemnify, as set forth in § 229.34(i), each transferee bank, any subsequent collecting bank, the paying bank, and any subsequent returning bank against losses that result from the fact that—

(1) The electronic image or electronic information is not derived from a paper check;

(2) The person on whose account the electronically-created item is drawn did not authorize the issuance of the item in the amount stated on the item or to the payee stated on the item (for purposes of this paragraph (g)(2), ''account'' includes an account as defined in section 229.2(a) as well as a credit or other arrangement that allows a person to draw checks that are payable by, through, or at a bank); or

(3) A person receives a transfer, presentment, or return of, or otherwise is charged for an electronically-created item such that the person is asked to make payment based on an item or check it has already paid.

(h) *Damages.* Damages for breach of the warranties in this section shall not exceed the consideration received by the bank that presents or transfers a check or returned check, plus interest compensation and expenses related to the check or returned check, if any.

(i) *Indemnity amounts.* (1) The amount of the indemnity in paragraphs (f)(2) and (g) of this section shall not exceed the sum of—

(i) The amount of the loss of the indemnified bank, up to the amount of the settlement or other consideration received by the indemnifying bank; and

(ii) Interest and expenses of the indemnified bank (including costs and reasonable attorney's fees and other expenses of representation).

(2)(i) If a loss described in paragraph (f)(2) or (g) of this section results in whole or in part from the indemnified bank's negligence or failure to act in good faith, then the indemnity amount described in paragraph (i)(1) of this section shall be reduced in proportion to the amount of negligence or bad faith attributable to the indemnified bank.

(ii) Nothing in this paragraph (i)(2) affects the rights of a person under the UCC or other applicable provision of state or federal law.

(j) *Tender of defense.* If a bank is sued for breach of a warranty or for indemnity under this section, it may give a prior bank in the collection or return chain written notice of the litigation, and the bank notified may then give similar notice to any other prior bank. If the notice states that the bank notified may come in and defend and that failure to do so will bind the bank notified in an action later brought by the bank giving the notice as to any determination of fact common to the two litigations, the bank notified is so bound unless after seasonable receipt of the notice the bank notified does come in and defend.

(k) *Notice of claim.* Unless a claimant gives notice of a claim for breach of warranty or for indemnity under this section to the bank that made the warranty or indemnification within 30 days after the claimant has reason to know of the breach or facts and circumstances giving rise to the indemnity and the identity of the warranting or indemnifying bank, the warranting or indemnifying bank is discharged to the extent of any loss caused by the delay in giving notice of the claim.

■ 9. In § 229.35, paragraphs (a) and (d) are revised to read as follows:

§ 229.35 Indorsements.

(a) Indorsement standards. A bank (other than a paying bank) that handles a check during forward collection or a returned check shall indorse the check in a manner that permits a person to interpret the indorsement, in accordance with American National

Standard (ANS) Specifications for Physical Check Endorsements, X9.100–111 (ANS X9.100–111), for a paper check other than a substitute check; ANS Specifications for an Image Replacement Document, X9.100–140 (ANS X9.100–140), for a substitute check; and ANS Specifications for Electronic Exchange of Check and Image Data—Domestic, X9.100–187 (ANS X9.100–187), for an electronic check; unless the Board by rule or order determines that different standards apply or the parties otherwise agree.

* * * * *

(d) *Indorsement for depositary bank.* A depositary bank may arrange with another bank to apply the other bank's indorsement as the depositary bank indorsement, provided that any indorsement of the depositary bank on the check avoids the area reserved for the depositary bank indorsement as specified in the indorsement standard applicable to the check under paragraph (a) of this section. The other bank indorsing as depositary bank is considered the depositary bank for purposes of subpart C of this part.

■ 10. Section 229.36 is revised to read as follows:

§ 229.36 Presentment and issuance of checks.

(a) *Receipt of electronic checks.* The terms under which a paying bank will accept presentment of an electronic check is governed by the paying bank's agreement with the presenting bank.

(b) *Receipt of paper checks.* (1) A paper check is considered received by the paying bank when it is received—

(i) At a location to which delivery is requested by the paying bank;

(ii) At an address of the bank associated with the routing number on the check, whether contained in the MICR line or in fractional form;

(iii) At a branch, head office, or other location consistent with the name and address of the bank on the check if the bank is identified on the check by name and address; or

(iv) At any branch or head office, if the bank is identified on the check by name without address.

(2) A bank may require that checks presented to it as a paying bank be separated from returned checks.

(c) *Liability of bank during forward collection.* Settlements between banks for the forward collection of a check are final when made; however, a collecting bank handling a check for forward collection may be liable to a prior collecting bank, including the depositary bank, and the depositary bank's customer.

(d) *Same-day settlement.* (1) A paper check is considered presented, and a paying bank must settle for or return the check pursuant to paragraph (d)(2) of this section, if a presenting bank delivers the check in accordance with reasonable delivery requirements established by the paying bank and demands payment under this paragraph (d)—

(i) At a location designated by the paying bank for receipt of paper checks under this paragraph (d) at which the paying bank would be considered to have received the paper check under paragraph (b) of this section or, if no location is designated, at any location described in paragraph (b) of this section; and

(ii) By 8 a.m. on a business day (local time of the location described in paragraph (d)(1)(i) of this section).

(2) A paying bank may require that paper checks presented for settlement pursuant to paragraph (d)(1) of this section be separated from other forward-collection checks or returned checks.

(3) If presentment of a paper check meets the requirements of paragraph (d)(1) of this section, the paying bank is accountable to the presenting bank for the amount of the check unless, by the close of Fedwire on the business day it receives the check, it either—

(i) Settles with the presenting bank for the amount of the check by credit to an account at a Federal Reserve Bank designated by the presenting bank; or

(ii) Returns the check.

(4) Notwithstanding paragraph (d)(3) of this section, if a paying bank closes on a business day and receives presentment of a paper check on that day in accordance with paragraph (d)(1) of this section—

(i) The paying bank is accountable to the presenting bank for the amount of the check unless, by the close of Fedwire on its next banking day, it either—

(A) Settles with the presenting bank for the amount of the check by credit to an account at a Federal Reserve Bank designated by the presenting bank; or

(B) Returns the check.

(ii) If the closing is voluntary, unless the paying bank settles for or returns the check in accordance with paragraph (d)(3) of this section, it shall pay interest compensation to the presenting bank for each day after the business day on which the check was presented until the paying bank settles for the check, including the day of settlement.

■ 11. In § 229.38 paragraphs (b), (c), and (d) are revised to read as follows:

§ 229.38 Liability.

* * * * *

(b) *Paying bank's failure to make timely return.* If a paying bank fails both to comply with its expeditious return requirements under § 229.31(b) and with the deadline for return under the UCC, Regulation J (12 CFR part 210), or the extension of deadline under § 229.31(g) in connection with a single nonpayment of a check, the paying bank shall be liable under either § 229.31(b) or such other provision, but not both.

(c) *Comparative negligence.* If a person, including a bank, fails to exercise ordinary care or act in good faith under this subpart in indorsing a check (§ 229.35), accepting a returned check or notice of nonpayment (§ 229.33(b), (c), and (d)), or otherwise, the damages incurred by that person under § 229.38(a) shall be diminished in proportion to the amount of negligence or bad faith attributable to that person.

(d) *Responsibility for certain aspects of checks.* (1) A paying bank, or in the case of a check payable through the paying bank and payable by another bank, the bank by which the check is payable, is responsible for damages under paragraph (a) of this section to the extent that the condition of the check when issued by it or its customer adversely affects the ability of a bank to indorse the check legibly in accordance with § 229.35. A depositary bank is responsible for damages under paragraph (a) of this section to the extent that the condition of the back of a check arising after the issuance of the check and prior to acceptance of the check by it adversely affects the ability of a bank to indorse the check legibly in accordance with § 229.35. A reconverting bank is responsible for damages under paragraph (a) of this section to the extent that the condition of the back of a substitute check transferred, presented, or returned by it—

(i) Adversely affects the ability of a subsequent bank to indorse the check legibly in accordance with § 229.35; or

(ii) Causes an indorsement that previously was applied in accordance with § 229.35 to become illegible.

(2) Responsibility under this paragraph (d) shall be treated as negligence of the paying bank, depositary bank, or reconverting bank for purposes of paragraph (c) of this section.

* * * * *

■ 12. Section 229.39 is revised to read as follows:

§ 229.39 Insolvency of bank.

(a) *Duty of receiver to return unpaid checks.* A check or returned check in, or coming into, the possession of a paying

bank, collecting bank, depositary bank, or returning bank that suspends payment, and which is not paid, shall be returned by the receiver, trustee, or agent in charge of the closed bank to the bank or customer that transferred the check to the closed bank.

(b) *Claims against banks for checks not returned by receiver.* If a check or returned check is not returned by the receiver, trustee, or agent in charge of the closed bank under paragraph (a) of this section, a bank shall have claims with respect to the check or returned check as follows:

(1) If the paying bank has finally paid the check, or if a depositary bank is obligated to pay the returned check, and suspends payment without making a settlement for the check or returned check with the prior bank that is or becomes final, the prior bank has a claim against the paying bank or the depositary bank.

(2) If a collecting bank, paying bank, or returning bank receives settlement from a subsequent bank for a check or returned check, which settlement is or becomes final, and suspends payments without making a settlement for the check with the prior bank, which is or becomes final, the prior bank has a claim against the collecting bank or returning bank.

(c) *Preferred claim against presenting bank for breach of warranty.* If a paying bank settles with a presenting bank for one or more checks, and if the presenting bank breaches a warranty specified in § 229.34(c)(1) or (3) with respect to those checks and suspends payments before satisfying the paying bank's warranty claim, the paying bank has a preferred claim against the presenting bank for the amount of the warranty claim.

(d) *Finality of settlement.* If a paying bank or depositary bank gives, or a collecting bank, paying bank, or returning bank gives or receives, a settlement for a check or returned check and thereafter suspends payment, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of a certain time or the happening of certain events.

■ 13. Section 229.40 is revised to read as follows:

§ 229.40 Effect of merger transaction.

For purposes of this subpart, two or more banks that have engaged in a merger transaction may be considered to be separate banks for a period of one year following the consummation of the merger transaction.

■ 14. Section 229.42 is revised to read as follows:

§ 229.42 Exclusions.

The expeditious return (§§ 229.31(b) and 229.32(b)), notice of nonpayment (§ 229.31(c)), and same-day settlement (§ 229.36(d)) requirements of this subpart do not apply to a check drawn upon the United States Treasury, to a U.S. Postal Service money order, or to a check drawn on a state or a unit of general local government that is not payable through or at a bank.

■ 15. In § 229.43, paragraphs (a)(2) and (b) are revised to read as follows:

§ 229.43 Checks payable in Guam, American Samoa, and the Northern Mariana Islands.

(a) * * *

(2) *Pacific island check* means—

(i) A demand draft drawn on or payable through or at a Pacific island bank, which is not a check as defined in § 229.2(k); and

(ii) An electronic image of, and electronic information derived from, a demand draft or returned demand draft drawn on or payable through or at a Pacific island bank that—

(A) Is sent to a receiving bank pursuant to an agreement between the sender and the receiving bank; and

(B) Conforms with ANS X9.100–187, unless the Board by rule or order determines that a different standard applies or the parties otherwise agree.

(b) *Rules applicable to Pacific island checks.* To the extent a bank handles a Pacific island check as if it were a check defined in § 229.2(k) or an electronic check defined in § 229.2(ggg), the bank is subject to the following sections of this part (and the word ''check'' in each such section is construed to include a Pacific island check)—

(1) Section 229.30(a) (Checks under this subpart), and (b) (Writings);

(2) Section 229.32 (Returning bank's responsibilities for return of checks) except that the returning bank is not subject to the requirement to return a Pacific Island check in an expeditious manner;

(3) Section 229.33(b) (Acceptance of electronic returned checks and electronic notices of nonpayment), (c) (Acceptance of paper returned checks and paper notices of nonpayment), § 229.33(d) (Acceptances of oral notices of nonpayment), § 229.33(e) (Payment), § 229.33(f) (Misrouted returned checks and written notices of nonpayment), § 229.33(g) (Charges);

(4) Section 229.34(a) (Warranties with respect to electronic checks and electronic returned checks), § 229.34(b) (Transfer and presentment warranties with respect to a remotely-created check), § 229.34(c)(2) (Cash letter total warranty), § 229.34(c)(3) (Encoding warranty), § 229.34(f) (Remote deposit capture warranty), § 229.34(g) (Indemnities with respect to electronically-created items), § 229.34(h) (Damages), § 229.34(i) (Indemnity amounts), and § 229.34(j) (Tender of defense);

(5) Section 229.35 (Indorsements); for purposes of § 229.35(c) (Indorsement by a bank), the Pacific island bank is deemed to be a bank;

(6) Section 229.36(c) (Liability of bank during forward collection);

(7) Section 229.37 (Variation by agreement);

(8) Section 229.38 (Liability), except for § 229.38(b) (Paying bank's failure to make timely return);

(9) Section 229.39 (Insolvency of bank), except for § 229.39(c) (Preferred claim against presenting bank for breach of warranty); and

(10) Section 229.40 (Effect of merger transaction), § 229.41 (Relation to state law) and § 229.42 (Exclusions).

Subpart D—Substitute Checks

■ 16. In § 229.51, paragraphs (b)(2) through (3) are revised to read as follows:

§ 229.51 General provisions governing substitute checks.

* * * * *

(b) * * *

(2) Identifies the reconverting bank in a manner that preserves any previous reconverting-bank identifications, in accordance with ANS X9.100–140; and

(3) Identifies the bank that truncated the original check, in accordance with ANS X9.100–140.

* * * * *

■ 17. In § 229.52, paragraph (a) is revised to read as follows:

§ 229.52 Substitute check warranties.

(a) Content and provision of substitute-check warranties. (1) A bank that transfers, presents, or returns a substitute check (or a paper or electronic representation of a substitute check) for which it receives consideration warrants to the parties listed in paragraph (b) of this section that—

(i) The substitute check meets the requirements for legal equivalence described in § 229.51(a)(1) and (2); and

(ii) No depositary bank, drawee, drawer, or indorser will receive presentment or return of, or otherwise be charged for, the substitute check, the original check, or a paper or electronic representation of the substitute check or original check such that that person will be asked to make a payment based on a check that it already has paid.

(2) A bank that rejects a check submitted for deposit and returns to its customer a substitute check (or a paper or electronic representation of a substitute check) makes the warranties in paragraph (a)(1) of this section regardless of whether the bank received consideration.

* * * * *

■ 18. In § 229.53, paragraph (a) is revised to read as follows:

§ 229.53 Substitute check indemnity.

(a) *Scope of indemnity.* (1) A bank that transfers, presents, or returns a substitute check or a paper or electronic representation of a substitute check for which it receives consideration shall indemnify the recipient and any subsequent recipient (including a collecting or returning bank, the depositary bank, the drawer, the drawee, the payee, the depositor, and any indorser) for any loss incurred by any recipient of a substitute check if that loss occurred due to the receipt of a substitute check instead of the original check.

(2) A bank that rejects a check submitted for deposit and returns to its customer a substitute check (or a paper or electronic representation of a substitute check) shall indemnify the recipient as described in paragraph (a)(1) of this section regardless of whether the bank received consideration.

* * * * *

Appendix D to Part 229—[Removed and Reserved]

■ 19. Appendix D to part 229 is removed and reserved.

■ 20. In appendix E to part 229:

■ A. Under ''II. Section 229.2 Definitions'':

■ i. Revise paragraph 2 under ''Z. 229.2(z) Paying Bank'';

■ ii. Revise DD. 229(dd);

■ iii. Revise VV. 229.2(vv);

■ iv. Revise BBB. 229.2(bbb);

■ v. Add GGG. 229.2(ggg); and

■ vi. Add HHH. 229.2(hhh).

■ B. Revise XVI through XXVI and XXIX;

■ C. In ''XXX. § 229.51 General provisions governing substitute checks,'' revise paragraph B;

■ D. Revise XXXI;

■ E. In ''XXXII. § 229.53 Substitute Check Indemnity,'' paragraphs A, B.1., B.1. Examples, and B.3. are revised.

■ F. In ''XXXIII. Section 229.54 Expedited Recredit for Consumers,'' paragraph A.2. is revised.

The revisions and addition read as follows:

Appendix E to Part 229—Commentary

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II. Section 229.2 Definitions

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Z. 229.2(z) Paying Bank

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2. Under § 229.31, a bank designated as a payable-through bank or payable-at bank and to which the check is sent for payment or collection is responsible for the expedited return of checks and notice of nonpayment requirements of Subpart C. The payable-through or payable-at bank may contract with the payor with respect to its liability in discharging these responsibilities. The Board believes that the EFA Act makes a clear connection between availability and the time it takes for checks to be cleared and returned. Allowing the payable-through bank additional time to forward checks to the payor and await return or pay instructions from the payor may delay the return of these checks, increasing the risks to depositary banks. Subpart C of this part requires payable-through and payable-at banks to return a check expeditiously based on the time the payable-through or payable-at bank received the check for forward collection.

* * * * *

DD. 229.2(dd) Routing Number

1. Each bank is assigned a routing number by an agent of the American Bankers Association. The routing number takes two forms—a fractional form and a nine-digit form. A paying bank is identified by both the fractional form routing number (which normally appears in the upper right hand corner of the check) and the nine-digit form. The nine-digit form of the routing number of the paying bank generally is printed in magnetic ink near the bottom of the check (the MICR line; see ANS X9.13). In the case of an electronic check, the routing number of the paying bank is contained in the electronic image of the check (in nine-digit form and fractional form) and in the electronic information related to the check (in nine-digit form). When a check is payable by one bank but payable through another bank, the routing number appearing on the check is that of the payable-through bank, not the payor bank. Industry standards require depositary banks, subsequent collecting banks, and returning banks to place their routing numbers in nine-digit form in their indorsements. (See § 229.35 and commentary thereto).

* * * * *

VV. 229.2(vv) MICR Line

1. Information in the MICR line of a check must be printed in accordance with ANS X9.13 for original checks and in accordance with ANS X9.100–140 for substitute checks, and must be contained in electronic checks in accordance with ANS X9.100–187. These standards could vary the requirements for printing the MICR line, such as by indicating circumstances under which the use of magnetic ink is not required. Banks that exchange checks electronically may agree to other standards for including MICR line information in the checks that they exchange electronically.

* * * * *

BBB. 229.2(bbb) Sufficient Copy and Copy

1. A ''copy'' or a ''sufficient copy'' as defined in 229.2(bbb) must be a paper reproduction of a check, unless the parties sending and receiving the copy otherwise agree. Therefore, an electronic image of a check is not a ''copy'' or a ''sufficient copy'' absent an agreement to that effect. If a customer has agreed to receive such information electronically, however, a bank that is required to provide a copy or sufficient copy may satisfy that requirement by providing an electronic image. (See § 229.58).

2. A sufficient copy, which is used to resolve claims related to the receipt of a substitute check, must be a copy of the original check.

3. A bank under § 229.53(b)(3) may limit its liability for an indemnity claim and under §§ 229.54(e)(2) and 229.55(c)(2) may respond to an expedited recredit claim by providing the claimant with a copy of a check that accurately represents all of the information on the front and back of the original check as of the time the original check was truncated or that otherwise is sufficient to determine the validity of the claim against the bank.

Examples

a. A copy of an original check that accurately represents all the information on the front and back of the original check as of the time of truncation would constitute a sufficient copy if that copy resolved the claim. For example, if resolution of the claim required accurate payment and indorsement information, an accurate copy of the front and back of a legible original check (including but not limited to a substitute check) would be a sufficient copy.

b. A copy of the original check that does not accurately represent all the information on both the front and back of the original check also could be a sufficient copy if such copy contained all the information necessary to determine the validity of the relevant claim. For instance, if a consumer received a substitute check that contained a blurry image of a legible original check, the consumer might seek an expedited recredit because his or her account was charged for $1,000, but he or she believed that the check was written for only $100. If the amount that appeared on the front of the original check was legible, an accurate copy of only the front of the original check that showed the amount of the check would be sufficient to determine whether or not the consumer's claim regarding the amount of the check was valid.

* * * * *

GGG. 229.2(ggg) Electronic Check and Electronic Returned Check

1. Banks often enter into agreements under which a check may be transferred, returned, or presented electronically instead of transferring, returning, or presenting the paper check. For example, an agreement may provide that either an electronic image of the

check or electronic information related to the check may be sent instead of the paper check. In order to satisfy Regulation CC's definition of ''electronic check'' (or ''electronic returned check''), however, both the electronic image of the check and electronic information derived from the check must be sent. A sending bank and receiving bank may also agree, for example, that instead of sending the electronic check or electronic returned check directly to the receiving bank, the electronic check or electronic returned check may be sent to an intermediary that stores the electronic check or electronic returned check on the receiving bank's behalf and makes the electronic check or electronic returned check available for the receiving bank to retrieve.

2. A sending bank must have an agreement with the receiving bank in order to send an electronic check instead of a paper check. The agreement to receive an electronic check or electronic returned check may be either bilateral or through a Federal Reserve Bank operating circular, clearinghouse rule, or other interbank agreement. (See UCC 4–110).

3. ANS X9.100–187 is the most prevalent industry standard for electronic checks and electronic returned checks that will enable banks to create substitute checks. Multiple standards, however, exist that would enable a bank to create a substitute check from an electronic check. Therefore, the banks exchanging electronic checks may agree that a different standard applies to electronic checks exchanged between the two banks. Additionally, banks that exchange checks electronically may agree to transfer, present, or return only electronic images of checks or only electronic information related to checks. In these situations, the sending bank and receiving bank will have agreed to a different standard as ANS X9.100–187 requires both an electronic image and electronic information.

4. Electronic checks and electronic returned checks as defined in Regulation CC are subject to subpart C, except as otherwise provided in that subpart. (See § 229.30 and commentary thereto).

HHH. 229.2(hhh) Electronically-Created Item

1. Electronically-created items are also sometimes referred to in the industry as ''electronic payment orders'' or ''EPOs.''

2. Because an electronically-created item as defined in Regulation CC never existed in paper form, it does not meet the definition of ''electronic check'' in 229.2(ggg) and therefore an electronically-created item cannot be used to create a substitute check that is the legal equivalent of the original paper check.

3. An electronically-created item can resemble an electronic image of a paper check or an electronic image of a remotely created check. (See 229.2(fff) (definition of remotely created check)).

Examples

a. A corporate customer of a bank, rather than printing and mailing a paper check to a payee, electronically creates an image that looks like an image of the corporate customer's paper checks and emails the image to the payee.

b. A consumer uses a smart-phone application through which the consumer provides the payee name, amount, and the consumer's signature. The application electronically sends this information, appearing formatted as a check, to the payee.

c. A consumer calls his utility company to make an emergency bill payment, and provides his bank account information. The utility company uses this information to create an electronically-created item and deposits the electronically-created item with its bank to obtain payment from the consumer.

* * * * *

XVI. Section 229.30 Electronic Checks and Electronic Information

A. 229.30(a) Checks Under This Subpart

1. A bank may agree to receive an electronic check or electronic returned check from another bank instead of a paper check or returned check. (See § 229.2(bbb) and commentary thereto). Section 229.30(a) does not give a bank the right to send an electronic check or electronic returned check absent an agreement to do so with the receiving bank.

2. Electronic checks and electronic returned checks are subject to subpart C of this part as if they were checks or returned checks, unless otherwise provided in subpart C. For example, § 229.31(c), which requires a paying bank to provide a notice of nonpayment if the paying bank determines not to pay a check in the amount of $5,000 or more, also applies when a paying bank determines not to pay an electronic check in the amount of $5,000 or more. A depositary bank's obligation to pay for a returned check (§ 229.33(e)) also applies with respect to an electronic returned check.

Additionally, §§ 229.33(b) and 229.36(a) specify that the parties' agreements govern the receipt of electronic returned checks and electronic written notices of nonpayment, and electronic checks, respectively. Section 229.34(a) sets forth warranties that are given only with respect to electronic checks and electronic returned checks and section 229.34(f) sets forth an indemnity given only with respect to remote deposit capture. Warranties that apply to paper checks or paper returned checks also apply to electronic checks and electronic returned checks, including § 229.34(b) (transfer and presentment warranties with respect to remotely created checks), § 229.34(c) (settlement amount, encoding, and offset warranties), § 229.34(d) (returned check warranties), and § 229.34(e) (notice of nonpayment warranties). The parties may, by agreement, vary the effect of the provisions in subpart C of this part as they apply to electronic checks and electronic returned checks, except that as set forth in § 229.37, no agreement can disclaim the responsibility of a bank for its own lack of good faith or failure to exercise ordinary care. (See § 229.37 and commentary thereto).

3. Certain provisions of subpart C relate solely to paper checks or paper returned checks, as specified, such as § 229.33(c) (acceptance of paper returned checks) and § 229.36(d) (same-day settlement).

B. 229.30(b) Writings

1. Provisions in subpart C of this part require that a paying bank or returning bank send information in writing. For example, § 229.31(f) requires that a notice in lieu be either a copy of the check or a written notice of nonpayment. A bank may send information required to be in writing in electronic form if the bank sending the information has an agreement with the bank receiving the information to do so.

XVII. Section 229.31 Paying Bank's Responsibility for Return of Checks and Notices of Nonpayment

A. 229.31(a) Return of Checks

1. Routing of returned checks.

a. This subsection is subject to the requirements of expeditious return provided in § 229.31(b).

b. The paying bank acts, in effect, as an agent or subagent of the depositary bank in selecting a means of return. Under § 229.31(a), a paying bank is authorized to route the returned check in a variety of ways:

i. It may send the returned check directly to the depositary bank by sending an electronic returned check directly to the depositary bank if the paying bank has an agreement with the depositary bank to do so, or by using a courier or other means of delivery, bypassing returning banks; or

ii. It may send the returned check or electronic returned check to any returning bank agreeing to handle the returned check or electronic returned check, regardless of whether or not the returning bank handled the check for forward collection.

c. If the paying bank elects to return the check directly to the depositary bank, it is not necessarily required to return the check to the branch of first deposit. A paper check may be returned to the depositary bank at any physical location permitted under § 229.33(c).

2. a. In some cases, a paying bank will be unable to identify the depositary bank through the use of ordinary care and good faith. These cases are now rare as depositary banks generally apply their indorsements electronically. A paying bank, for example, would be unable to identify the depositary bank if the depositary bank's indorsement is neither in an addenda record nor within the image of the check that was presented electronically. A paying bank, however, would not be ''unable'' to identify the depositary bank merely because the depositary bank's indorsement is available within the image rather than attached as an addenda record.

b. In cases where the paying bank is unable to identify the depositary bank, the paying bank may send the returned check to a returning bank that agrees to handle the returned check. The returning bank may be better able to identify the depositary bank.

c. In the alternative, the paying bank may send the check back up the path used for forward collection of the check. The presenting bank and prior collecting banks normally will be able to trace the collection path of the check through the use of their internal records in conjunction with the indorsements on the returned check. In these limited cases, the presenting bank or a prior collecting bank is required to accept the returned check and send it to another prior collecting bank in the path used for forward

collection or to the depositary bank. If the paying bank has an agreement to send electronic returned checks to a bank that handled the check for forward collection, the paying bank may send the electronic returned check to that bank.

d. A paying bank returning a check to a prior collecting bank because it is unable to identify the depositary bank must advise that bank that it is unable to identify the depositary bank. This advice must be conspicuous, such as a stamp on each check for which the depositary bank is unknown if such checks are commingled with other returned checks, or, if such checks are sent in a separate cash letter, by one notice on the cash letter. In the case of an electronic returned check, the advice requirement may be satisfied as agreed to by the parties. The advice will warn the bank that this check will require special research and handling in accordance with § 229.32(a)(2). The returned check may not be prepared as a qualified return.

e. A paying bank also may send a check to a prior collecting bank to make a claim against that bank under § 229.35(b) where the depositary bank is insolvent or in other cases as provided in § 229.35(b). Finally, a paying bank may make a claim against a prior collecting bank based on a breach of warranty under UCC 4–208.

3. Midnight deadline. Except for the extension permitted by § 229.31(g), discussed below, this section does not relieve a paying bank from the requirement for timely return (*i.e.,* midnight deadline) under UCC 4–301 and 4–302, which continue to apply. Under UCC 4–302, a paying bank is ''accountable'' for the amount of a demand item, other than a documentary draft, if it does not pay or return the item or send notice of dishonor by its midnight deadline. Under UCC 3–418(c) and 4–215(a), late return constitutes payment and would be final in favor of a holder in due course or a person who has in good faith changed his position in reliance on the payment. Thus, the UCC midnight deadline gives the paying bank an incentive to make a prompt return.

4. UCC provisions affected. This paragraph directly affects the following provisions of the UCC, and may affect other sections or provisions:

a. Section 4–301(d), in that instead of returning a check through a clearinghouse or to the presenting bank, a paying bank may send a returned check to the depositary bank or to a returning bank.

b. Section 4–301(a), in that settlement for returned checks is made under § 229.32(e), not by revocation of settlement.

B. 229.31(b) Expeditious Return of Checks

1. This section requires a paying bank (which, for purposes of subpart C, may include a payable-through and payable-at bank (see § 229.2(z)) that determines not to pay a check to return the check expeditiously. Section 229.31(d) sets forth exceptions to this general rule. If a paying bank is not subject to the requirement for expeditious return under § 229.31(b), the paying bank, nonetheless, must return the check within its deadlines under the UCC, Regulation J (12 CFR part 210) or §§ 229.36(d)(3) and (f)(4), as extended by § 229.31(g), for returning the item or sending notice.

2. Two-Day Test

a. A returned check, including the original check, substitute check, or electronic returned check, is returned expeditiously if a paying bank sends the returned check in a manner such that the returned check would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following the banking day on which the check was presented to the paying bank.

b. A paying bank may satisfy its expeditious return requirement by returning either an electronic returned check or a paper check. For example, a paying bank could meet the expeditious return test by sending an electronic returned check directly to the depositary bank, if the paying bank has an agreement with the depositary bank to do so, such that it normally would reach the depositary bank by the specified deadline, or sending an electronic returned check to a returning bank, if the paying bank has an agreement with the returning bank to do so, within the returning bank's timeframe for delivering electronic returned checks to the depositary bank within the return deadline. A paying bank that sends a returned check in paper form would typically need a highly expeditious means of delivery to meet the expeditious return test.

c. This test does not require actual receipt of the returned check by the depositary bank within the specified deadline. In determining whether an electronic returned check would normally reach a depositary bank within the specified deadline, a paying bank may rely on a returning bank's return deadlines and availability schedules for electronic returned checks and returned checks destined for the depositary bank. A paying bank may not rely on the availability schedules if the paying bank has reason to believe that these schedules do not reflect the actual time for return of an electronic returned check to the depositary bank to which the paying bank is returning the check. The paying bank is not responsible for unforeseeable delays in the return of the check, such as communication failures or transportation delays.

d. Where the second business day following presentment of the check to the paying bank is not a banking day for the depositary bank, the depositary bank might not process checks on that day. Consequently, if the last day of the time limit is not a banking day for the depositary bank, the check may be delivered to the depositary bank not later than 2 p.m. (local time of the depositary bank) on the depositary bank's next banking day and the return will still be considered expeditious.

e. Paying banks and returning banks are subject to the expeditious return rule, however, under section 229.33(a) a paying or returning bank may be liable to a depositary bank for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying or returning bank could return a returned check to the depositary bank electronically by commercially reasonable means. The depositary bank has the burden of proof for demonstrating that its arrangements are commercially reasonable.

3. Examples

a. The paying bank and depositary bank have a bilateral agreement under which the depositary bank agrees to receive electronic returned checks directly from the paying bank. If a check is presented to a paying bank on Monday, the paying bank should send the returned check such that an electronic returned check normally would be received by the depositary bank by 2 p.m. (local time of the depositary bank) on Wednesday. This result is the same if, instead of a bilateral agreement, the paying bank and depositary bank are members of the same clearinghouse and agree to exchange electronic returned checks under clearinghouse rules.

b. The depositary bank has an agreement to receive electronic returned checks from Returning Bank A but not from the paying bank. The paying bank, however, has an agreement with Returning Bank A to send electronic returned checks to Returning Bank A. If a check is presented to the paying bank on Monday, the paying bank should send the returned check such that the depositary bank normally would receive the returned check by 2 p.m. (local time of the depositary bank) on Wednesday. A paying bank may satisfy this requirement by sending either an electronic returned check or a paper returned check to Returning Bank A in a manner that permits Returning Bank A to send an electronic returned check to the depositary bank by 2 p.m. on Wednesday. The paying bank may also send a paper returned check to the depositary bank if a paper returned check would normally be received by the depositary bank by 2 p.m. on Wednesday.

c. The paying bank has an agreement to send electronic returned checks to Returning Bank A. The depositary bank has an agreement to receive electronic returned checks from Returning Bank B. The paying bank does not have an agreement to send electronic returned checks to Returning Bank B. Returning Bank A, however, has an agreement to send electronic returned checks to Returning Bank B. If a check is presented to the paying bank on Monday, the paying bank should send the returned check such that the depositary bank normally would receive the returned check by 2 p.m. (local time of the depositary bank) on Wednesday.

C. 229.31(c) Notice of Nonpayment

1. Requirement

a. The paying bank must send a notice of nonpayment if it decides not to pay a check in the amount of $5,000 or more. Except in the case where the returned check or a notice in lieu of return serves as the notice of nonpayment, the notice of nonpayment carries no value, and the check or substitute check must be returned in addition to the notice of nonpayment. The paying bank must send the notice of nonpayment such that it would normally be received by the depositary bank not later than 2 p.m. (local time of the depositary bank) on the second business day following presentment. In determining whether the notice requirement is satisfied, the paying bank may rely on the availability schedules of a third party that

provides the notice on behalf of the paying bank as the time that the notice is expected to be delivered to the depositary bank, unless the paying bank has reason to know the availability schedules are inaccurate.

b. A bank identified by routing number as the paying bank is considered the paying bank under this subpart and would be required to provide a notice of nonpayment even though that bank determined that the check was not drawn by a customer of that bank. (See commentary to the definition of paying bank in § 229.2(z)). A bank designated as a payable-through or payable-at bank and to which the check is sent for payment or collection is responsible for the notice of nonpayment requirement. The payable-through or payable-at bank may contract with the payor with respect to its liability in discharging these responsibilities.

c. The paying bank should not send a notice of nonpayment until it has finally determined not to pay the check. Under § 229.34(e), by sending the notice the paying bank warrants that it has returned or will return the check. If a paying bank sends a notice and subsequently decides to pay the check, the paying bank may mitigate its liability on this warranty by notifying the depositary bank that the check has been paid.

d. The return of the check itself may serve as the required notice of nonpayment. In some cases, the returned check may be received by the depositary bank within the time requirements of § 229.31(c)(1) and no notice other than the return of the check will be necessary. If the check is not received by the depositary bank within the time limits for notice, the return of the check may not satisfy the notice requirement. In determining whether the returned check will satisfy the notice requirement, the paying bank may rely on the availability schedules of returning banks as the time that the returned check is expected to be delivered to the depositary bank, unless the paying bank has reason to know the availability schedules are inaccurate.

e. The requirement for notice does not affect the requirements for return of the check under the UCC (or § 229.31(b)). A paying bank is not responsible for failure to give notice of nonpayment to a party that has breached a presentment warranty under UCC 4–208, notwithstanding that the paying bank may have returned the check. (See UCC 4–208 and 4–302).

2. Content of Notices

a. This paragraph provides that, to the extent the information is available to the paying bank, the notice must at a minimum contain the information contained in the check's MICR line when the check was received by the paying bank. The MICR line information includes the paying bank's routing number, the account number of the paying bank's customer, the check number, and auxiliary on-us fields for corporate checks, and may include the amount of the check.

b. Although it has no duty to do so, a paying bank that cannot identify the depositary bank from the check itself may wish to send the notice to the earliest collecting bank it can identify and indicate that the notice is not being sent to the depositary bank. The collecting bank may be able to identify the depositary bank and forward the notice, but is under no duty to do so. In addition, the collecting bank may actually be the depositary bank.

c. A bank must identify an item of information if the bank is uncertain as to that item's accuracy. A bank may make this identification in accordance with general industry practices, or by other reasonable means. For example, where the paying bank receives a handwritten check with a payee name that the paying bank cannot decipher using a good faith effort, the paying bank could include a ''?'' symbol in the payee's name field of the notice to indicate its uncertainty as to that particular element.

D. 229.31(d) Exceptions to the Expeditious Return of Checks and Notice of Nonpayment

1. Depositary Banks Not Subject to Subpart B of This Part

a. Subpart B of this part applies only to ''checks'' deposited in transaction ''accounts.'' A depositary bank with only time or savings accounts or credit card accounts need not comply with the availability requirements of subpart B of Regulation CC. Thus, the expeditious return requirement of § 229.31(b) and the notice of nonpayment requirement of § 229.31(c) do not apply to checks being returned to banks that do not hold accounts. The paying bank's midnight deadline in UCC 4–301 and 4–302 and § 210.12 of Regulation J (12 CFR 210.12), and the extension in § 229.31(g), would continue to apply to these checks.

b. The expeditious return requirement and the notice of nonpayment requirement apply only to ''checks'' deposited in a bank that is a ''depository institution'' under the EFA Act. Federal Reserve Banks, Federal Home Loan Banks, private bankers, and possibly certain industrial banks are not ''depository institutions'' within the meaning of the EFA Act and therefore are not subject to the expedited-availability requirements of subpart B of this regulation. Thus, the expeditious return and notice of nonpayment requirements of this section would not apply to a paying bank returning a check that was deposited in one of these banks.

2. Unidentifiable Depositary Banks

a. A paying bank that sends a check to a bank that handled the check for forward collection because the paying bank is unable to identify the depositary bank is not subject to the requirement for expeditious return by the paying bank or to the requirement for notice of nonpayment. Although the lack of requirement for notice of nonpayment under this paragraph will create risks for the depositary bank, the inability to identify the depositary bank will generally be due to the depositary bank's, or a collecting bank's, failure to indorse as required by § 229.35(a). If the depositary bank failed to use the proper indorsement, it should bear the risks of less-than-expeditious return or not receiving notice of nonpayment in a timely manner. Similarly, where the inability to identify the depositary bank is due to indorsements or other information placed on the back of the check by the depositary bank's customer or other prior indorser, the depositary bank should bear the risk that it cannot charge a returned check back to that customer.

b. This paragraph does not relieve a paying bank from the liability for the lack of expeditious return or not providing notice of nonpayment in cases where the paying bank is itself responsible for the inability to identify the depositary bank, such as when the paying bank's customer has used a check with printing or other material on the back in the area reserved for the depositary bank's indorsement, and the depositary bank placed its indorsement on the original check making the indorsement unreadable. (See § 229.38(c)).

c. A paying bank's return of a check to an unidentifiable depositary bank is subject to its midnight deadline under UCC 4–301, Regulation J (if the check is returned through a Federal Reserve Bank), and the extension provided in § 229.31(g).

E. 229.31(e) Identification of Returned Check

1. The reason for the return must be clearly indicated. A check is identified as a returned check if the front of that check indicates the reason for return, even though it does not specifically state that the check is a returned check. A reason such as ''Refer to Maker'' may be appropriate in certain cases, such as when a drawer with a positive pay arrangement instructs the bank to return the check. By contrast, a reason such as ''Refer to Maker'' would be inappropriate in cases where a check is being returned due to the paying bank having already paid the item, where a check has been altered, or where a check is unauthorized. In such cases, the payee and not the drawer would generally have more information as to why the check is being returned.

2. If the returned check is a substitute check or electronic returned check, the reason for return information must be included such that it is retained on any subsequent substitute check. For substitute checks, this requirement could be met by placing the information (1) in the location on the front of the substitute check that is specified by ANS X9.100–140 or (2) within the image of the original check that appears on the front of the substitute check so that the information is retained on any subsequent substitute check. For electronic returned checks, this requirement could be met by including the reason for return in accordance with ANS X9.100–187. If the paying bank places the returned check in a carrier envelope, the carrier envelope should indicate that it is a returned check but need not repeat the reason for return stated on the check if it in fact appears on the check.

F. 229.31(f) Notice in Lieu of Return

1. A notice in lieu of return may be used by a bank handling a returned check that has been lost or destroyed, including when the original returned check has been charged back as lost or destroyed as provided in § 229.35(b). Notice in lieu of return is permitted only when a bank does not have and cannot obtain possession of the check (or must retain possession of the check for protest) and does not have sufficient information to create a substitute check. For example, a bank that does not have the

original check may have an image of both sides of the check, but the image may be insufficient or may not be in the proper format such that the bank cannot create a substitute check or provide required substitute check warranties. In that case, the check would be unavailable for return. A bank using a notice in lieu of return gives a warranty under § 229.34(d)(1)(iv) that the check, in any form, has not been and will not be returned.

2. A notice in lieu of return must be in writing (either in paper form, or if agreed to by the parties electronic form), but not provided by telephone or other oral transmission. The requirement for a writing and the indication that the notice is a substitute for the returned check is necessary so that any returning bank and the depositary bank are informed that the notice carries value. A check that is lost or otherwise unavailable for return may be returned by sending a legible copy of both sides of the check or, if such a copy is not available to the paying bank, a written notice of nonpayment containing the information specified in § 229.31(c)(2). The copy or written notice must clearly indicate it is a notice in lieu of return. Notice by a legible facsimile of both sides of the check may satisfy the requirements for a notice in lieu of return.

The paying bank may send an electronic image of both sides of the check as a notice in lieu of return only if it has an agreement to do so with the receiving bank. (See § 229.30(b)).

3. The requirement of this paragraph supersedes the requirement of UCC 4–301(a) as to the form and information required of a notice of dishonor or nonpayment.

4. The notice in lieu of return is subject to the provisions of this subpart relating to returned checks and is treated like a returned check for purposes of this subpart. Reference in the regulation and this commentary to a returned check includes a notice in lieu of return unless the context indicates otherwise.

5. If not all of the information required by § 229.31(c)(2) is available, the paying bank may make a claim against any prior bank handling the check as provided in § 229.35(b).

G. 229.31(g) Extension of Deadline

1. This paragraph permits extension of the deadlines in the UCC, Regulation J (12 CFR part 210), and § 229.36(d)(3) and (4) for returning a check for which the paying bank previously has settled (generally midnight of the banking day following the banking day on which the check is received by the paying bank) and for returning a check without settling for it (generally midnight of the banking day on which the check is received by the paying bank, or such other time provided by § 210.9 of Regulation J (12 CFR part 210), or § 229.36(d)(3) or (4)), in two circumstances:

a. A paying bank may, by agreement, send an electronic returned check instead of a paper returned check or may have a courier that leaves after midnight (or after any other applicable deadline) to deliver its forward-collection checks. This paragraph removes the constraint of the midnight deadline for returned checks if the returned check reaches the depositary bank (or receiving bank, if the depositary bank is unidentifiable) on or before the depositary bank's (or receiving bank's) next banking day following the otherwise applicable deadline by the earlier of the close of that banking day or a cutoff hour of 2 p.m. (local time of the depositary bank or receiving bank) or later set by the depositary bank (or receiving bank) under UCC 4–108. This paragraph applies to the extension of all midnight deadlines except Saturday midnight deadlines (see the following paragraph).

b. A paying bank may observe a banking day, as defined in the applicable UCC, on a Saturday, which is not a business day and therefore not a banking day under Regulation CC. In such a case, the UCC deadline for returning checks received and settled for on Friday, or for returning checks received on Saturday without settling for them, might require the bank to return the checks by midnight Saturday. However, the bank may not have its back-office operations staff available on Saturday to prepare and send the electronic returned checks, and the returning bank or depositary bank that would be receiving this electronic information may not have staff available to process it until Sunday night or Monday morning. This paragraph extends the midnight deadline if the returned checks reach the returning bank by a cut-off hour (usually on Sunday night or Monday morning) that permits processing during its next processing cycle or reach the depositary bank (or receiving bank) by the cut-off hour on its next banking day following the Saturday midnight deadline. This paragraph applies exclusively to the extension of Saturday midnight deadlines.

2. The time limits that are extended in each case are the paying bank's midnight deadline for returning a check for which it has already settled and the paying bank's deadline for returning a check without settling for it in UCC 4–301 and 4–302, §§ 210.9 and 210.12 of Regulation J (12 CFR 210.9 and 210.12), and § 229.36(d)(3) and (4).

3. If the paying bank has an agreement to do so with the receiving bank (such as through bilateral agreements, clearinghouse rules, or operating circular), the paying bank may satisfy its midnight or other return deadline by sending an electronic returned check prior to the expiration of the deadline. The time when the electronic returned check is considered to be received by the depositary bank is determined by the agreement. The paying bank satisfies its midnight or other return deadline by dispatching paper returned checks to another bank by courier, including a courier under contract with the paying bank, prior to expiration of the deadline.

4. This paragraph directly affects UCC 4–301 and 4–302 and §§ 210.9 and 210.12 of Regulation J (12 CFR 210.9 and 210.12) to the extent that this paragraph applies by its terms, and may affect other provisions.

H. 229.31(h) Payable Through and Payable at Checks

1. For purposes of subpart C of this part, the regulation defines a payable-through or payable-at bank (which could be designated the collectible-through or collectible-at bank) as a paying bank. The requirements of subpart C are imposed on a payable-through or payable-at bank and are based on the time of receipt of the forward collection check by the payable-through or payable-at bank. This provision is intended to speed the return of checks and receipt of notices of nonpayment for checks that are payable through or at a bank to the depositary bank.

2. A check sent for payment or collection to a payable-through or payable-at bank is not considered to be drawn on that bank for purposes of the midnight deadline provision of UCC 4–301.

I. 229.31(i) Reliance on Routing Number

1. Although § 229.35 requires that the depositary bank indorsement contain its nine-digit routing number, it is possible that a returned check will bear the routing number of the depositary bank in fractional, nine-digit, or other form. This paragraph permits a paying bank to rely on the routing number of the depositary bank as it appears on the check (in the depositary bank's indorsement) or in the electronic check sent pursuant to an agreement when the check, or electronic check, is received by the paying bank.

2. If there are inconsistent routing numbers, the paying bank may rely on any routing number designating the depositary bank. The paying bank is not required to resolve the inconsistency prior to processing the check. The paying bank remains subject to the requirement to act in good faith and use ordinary care under § 229.38(a).

XVIII. Section 229.32 Returning Bank's Responsibility for Returned Checks

A. 229.32(a) Return of Checks

1. Routing of Returned Check

a. Under § 229.32(a), the returning bank is authorized to route the returned check in a variety of ways:

i. It may send the returned check directly to the depositary bank by sending an electronic returned check directly to the depositary bank if the returning bank has an agreement with the depositary bank to do so, or by using a courier or other means of delivery; or

ii. It may send the returned check or electronic returned check to any returning bank agreeing to handle the returned check regardless of whether or not the returning bank handled the check for forward collection.

b. If the returning bank elects to send the returned check directly to the depositary bank, it is not required to send the check to the branch of the depositary bank that first handled the check. A paper returned check may be sent to the depositary bank at any physical location permitted under § 229.33(b).

2. Unidentifiable Depositary Bank

a. Returning banks agreeing to handle checks for return to depositary banks under § 229.32(a) are expected to be expert in identifying depositary bank indorsements. In the limited cases where the returning bank cannot identify the depositary bank, if the returning bank did not handle the check for

forward collection, it may send the returned check to any collecting bank that handled the check for forward collection.

b. If, on the other hand, the returning bank itself handled the check for forward collection, it may send the returned check to a collecting bank that was prior to it in the forward-collection process, which will be better able to identify the depositary bank. If there are no prior collecting banks, the returning bank must research the collection of the check and identify the depositary bank.

c. The returning bank's return of a check under this paragraph is subject to the requirement to use ordinary care under UCC 4–202(b). (See definition of returning bank in § 229.2(cc)).

d. As in the case of a paying bank returning a check under § 229.31(a)(2), a returning bank returning a check under § 229.32(a)(2) must advise the bank to which it sends the returned check that it is unable to identify the depositary bank. This advice must be conspicuous, such as a stamp on the check or a notice on the cash letter. The returned check may not be prepared as a qualified return. In the case of an electronic returned check, the advice requirement may be satisfied as agreed to by the parties.

3. A returning bank agrees to handle a returned check if it—

a. Publishes or distributes availability schedules for the return of returned checks and accepts the returned check for return;

b. Handles a returned check for return that it did not handle for forward collection;

c. Agrees with the paying bank or returning bank to handle electronic returned checks sent by that bank; or

d. Otherwise agrees to handle a returned check.

4. *Cut-off hours.* A returning bank may establish earlier cut-off hours for receipt of returned checks than for receipt of forward collection checks, but, unless the sending bank and returning bank agree otherwise, the cut-off hour for returned checks may not be earlier than 2 p.m. (local time of the returning bank). The returning bank also may set different sorting requirements for returned checks than those applicable to other checks. Thus, a returning bank may allow itself more processing time for returns than for forward collection checks.

5. *Qualified returned checks.* A qualified returned check will be handled by subsequent returning banks more efficiently than a raw return. The qualified returned check must include the routing number of the depositary bank, the amount of the check, and a return identifier encoded on the check in magnetic ink. A check that is converted to a qualified returned check must be encoded in accordance with ANS X9.13 for original checks or ANS X9.100–140 for substitute checks. If the returning bank makes an encoding error in creating a qualified returned check, it may be liable under § 229.38 for losses caused by any negligence or under § 229.34(c)(3) for breach of an encoding warranty.

6. *Responsibilities of returning bank.* In meeting the requirements of this section, the returning bank is responsible for its own actions, but not those of the paying bank, other returning banks, or the depositary bank. (See UCC 4–202(c) regarding the responsibility of collecting banks).

7. *UCC sections affected.* Section 229.32 directly affects UCC Section 4–214(a) and may affect other sections or provisions. (See UCC 4–202(b)). Section 4–214(a) is affected in that settlement for returned checks is made under § 229.32(e) and not by charge-back of provisional credit.

B. 229.32(b) Expeditious Return of Checks

1. The standards for return of checks established by this section are similar to those for paying banks in § 229.31(b). This section requires a returning bank to return a returned check expeditiously, subject to the exceptions set forth in § 229.32(c). In effect, the returning bank is an agent or subagent of the paying bank and a subagent of the depositary bank for the purposes of returning the check.

2. A returning bank that agrees to handle a returned check (see commentary to § 229.32(a)) is subject to the expeditious return requirement with respect to the returned check except as provided in § 229.32(c)).

3. *Two-day test.* As in the case of a paying bank, a returning bank's return of a returned check is expeditious if it is sent in a manner such that the depositary bank would normally receive the returned check by 2 p.m. (local time of the depositary bank) of the second business day after the banking day on which the check was presented to the paying bank. Although a returning bank will not have firsthand knowledge of the day on which a check was presented to the paying bank, returning banks may, by agreement, allocate with paying banks liability for late return based on the delays caused by each. Paying banks and returning banks are subject to the expeditious return rule, however, under section 229.33(a) a paying or returning bank may be liable to a depositary bank for failing to return a check in an expeditious manner only if the depositary bank has arrangements in place such that the paying bank or returning bank could return a returned check to the depositary bank electronically by commercially reasonable means. The depositary bank has the burden of proof for demonstrating that its arrangements are commercially reasonable.

4. *Example.* Returning Bank A does not have an agreement to send electronic returned checks to the depositary bank but has an agreement to send electronic returned checks to Returning Bank B, which, in turn, has an agreement to send electronic returned checks to the depositary bank. If a check is presented to the paying bank on Monday, each returning bank would need to send the returned check in a manner such that the depositary bank normally would receive the returned check by 2 p.m. (local time of the depositary bank) on Wednesday.

C. 229.32(c) Exceptions to the Expeditious Return of Checks

1. This paragraph sets forth the circumstances under which a returning bank is not required to return the check to the depositary bank in accordance with § 229.32(b).

2. Depositary bank not subject to subpart B. This paragraph is similar to § 229.31(d)(1) and relieves a returning bank of its obligation to make expeditious return to a depositary bank that does not hold ''accounts'' under subpart B of this regulation or is not a ''depository institution'' within the meaning of the EFA Act. (See commentary to § 229.31(d)).

3. Unidentifiable depositary bank. A returning bank is not subject to the expeditious return requirements of § 229.32(b) in handling a returned check for which the paying bank cannot identify the depositary bank.

4. Misrouted returned check. A returning bank is not subject to the expeditious return requirements of § 229.32(b) in handling a misrouted returned check pursuant to § 229.33(f). A bank acting as a returning bank because it received a returned check on the basis that it was the depositary bank and sends the misrouted returned check to the correct depositary bank, directly or through subsequent returning banks, is similarly not subject to the expeditious return requirements of § 229.32(b). (See commentary to § 229.33(f)).

D. 229.32(d) Notice in Lieu of Return

1. This paragraph is similar to § 229.31(f) and authorizes a returning bank to originate a notice in lieu of return if the returned check is unavailable for return. Notice in lieu of return is permitted only when a bank does not have and cannot obtain possession of the check (or when the bank must retain possession of the check for protest) and does not have sufficient information to create a substitute check. (See commentary to § 229.31(f)).

E. 229.32(e) Settlement

1. Under the UCC, a paying bank settles with a presenting bank after the check is presented to the paying bank. The paying bank may recover the settlement when the paying bank returns the check to the presenting bank. Under this regulation, however, the paying bank may return the check directly to the depositary bank or through returning banks that did not handle the check for forward collection. On these more efficient return paths, the paying bank does not recover the settlement made to the presenting bank. Thus, this paragraph requires the returning bank to settle for a returned check (either with the paying bank or another returning bank) in the same way that it would settle for a similar check for forward collection. To achieve uniformity, this paragraph applies even if the returning bank handled the check for forward collection.

2. Any returning bank, including one that handled the check for forward collection, may provide availability for returned checks pursuant to an availability schedule as it does for forward collection checks. These settlements by returning banks, as well as settlements between banks made during the forward collection of a check, are considered final when made subject to any deferment of availability. (See § 229.36(c) and commentary to § 229.35(b)).

3. A returning bank may vary the settlement method it uses by agreement with

paying banks or other returning banks. Special rules apply in the case of insolvency of banks. (See § 229.39). If payment cannot be obtained from a depositary bank or returning bank because of its insolvency or otherwise, recovery can be had by returning banks, paying banks, and collecting banks from prior banks on this basis of the liability of prior banks under § 229.35(b).

4. This paragraph affects UCC 4–214(a) in that a paying bank or collecting bank does not ordinarily have a right to charge back against the bank from which it received the returned check, although it is entitled to settlement if it returns the returned check to that bank, and may affect other sections or provisions. Under § 229.36(c), a bank collecting a check remains liable to prior collecting banks and the depositary bank's customer under the UCC.

F. 229.32(f) Charges

1. This paragraph permits any returning bank, even one that handled the check for forward collection, to impose a fee on the paying bank or other returning bank for its service in handling a returned check. Where a claim is made under § 229.35(b), the bank on which the claim is made is not authorized by this paragraph to impose a charge for taking up a check. This paragraph preempts state laws to the extent that these laws prevent returning banks from charging fees for handling returned checks.

G. 229.32(g) Reliance on Routing Number

1. This paragraph is similar to § 229.31(i) and permits a returning bank to rely on routing numbers appearing on a returned check such as routing numbers in the depositary bank's indorsement, or in the electronic returned check received by the returning bank pursuant to an agreement, or on qualified returned checks. (See commentary to § 229.31(i)).

XIX. Section 229.33 Depositary Bank's Responsibility for Returned Checks and Notices of Nonpayment

A. 229.33(a) Right To Assert Claim

1. This paragraph sets forth the circumstances under which a paying bank or returning bank may be liable to a depositary bank for failing to return a check in an expeditious manner in accordance with §§ 229.31(b) and 229.32(b) respectively.

2. This paragraph does not require a depositary bank to establish arrangements to accept returned checks electronically, either directly from the paying bank or indirectly from a returning bank. Most depositary banks, however, have arrangements in place to accept returned checks electronically. (See commentary to §§ 229.31(b) and 229.32(b) for examples of direct and indirect arrangements).

3. The depositary bank has the burden of proof for demonstrating that its arrangements for accepting returned checks electronically are commercially reasonable. The standard allows for case-by-case flexibility and can change over time to reflect market practices. The standard is intended to prevent a depositary bank from establishing electronic return arrangements that are very limited in scope or that provide unreasonable barriers to return such that, in practice, the depositary bank would accept only a small proportion of its returns electronically.

B. 229.33(b) Acceptance of Electronic Returned Checks and Electronic Notices of Nonpayment

1. A depositary bank may agree directly with a returning bank or a paying bank (or through clearinghouse rules) to accept electronic returned checks. Likewise, a depositary bank may agree directly with a paying bank (or through clearinghouse rules) to accept electronic written notices of nonpayment. (See §§ 229.2(ggg), 229.30(b), and 229.31(c) and commentary thereto). The depositary bank's acceptance of electronic returned checks and electronic written notices of nonpayment is governed by the depositary bank's agreement with the banks sending the electronic returned check or electronic written notice of nonpayment to the depositary bank (or through the applicable clearinghouse rules). The agreement normally would specify the electronic address or receipt point at which the depositary bank accepts returned checks and written notices of nonpayment electronically, as well as what constitutes receipt of the returned checks and written notices of nonpayment. The agreement also may specify whether electronic returned checks must be separated from electronic checks sent for forward collection.

C. 229.33(c) Acceptance of Paper Returned Checks and Paper Notices of Nonpayment

1. This paragraph states where the depositary bank is required to accept paper returned checks and paper notices of nonpayment during its banking day. (These locations differ from locations at which a depositary bank must accept oral notices or electronic notices. (See § 229.33(b) and (d) and commentary thereto). This paragraph is derived from UCC 3–111, which specifies that presentment for payment may be made at the place specified in the instrument or, if there is none, at the place of business of the party to pay. In the case of returned checks, the depositary bank does not print the check and can only specify the place of ''payment'' of the returned check in its indorsement.

2. The paragraph specifies four locations at which the depositary bank must accept paper returned checks and paper notices of nonpayment:

a. The depositary bank must accept paper returned checks and paper notices of nonpayment at any location at which it requests presentment of forward collection paper checks, such as a processing center. A depositary bank does not request presentment of forward collection checks at a branch of the bank merely by paying checks presented over the counter.

b. i. If the depositary bank indorsement states the name and address of the depositary bank, it must accept paper returned checks and paper notices of nonpayment at the branch, head office, or other location, such as a processing center, indicated by the address. If the address is too general to identify a particular location, then the depositary bank must accept paper returned checks and paper notices of nonpayment at any branch or head office consistent with the address. If, for example, the address is ''New York, New York,'' each branch in New York City must accept paper returned checks and paper notices of nonpayment. Accordingly, a depositary bank may limit the locations at which it must accept paper returned checks and paper notices of nonpayment by specifying a branch or head office in its indorsement.

ii. If no address appears in the depositary bank's indorsement, the depositary bank must accept paper returned checks and paper notices of nonpayment at any branch or head office associated with the depositary bank's routing number. The offices associated with the routing number of a bank are found in *American Bankers Association Key to Routing Numbers,* published by an agent of the American Bankers Association, which lists a city and state address for each routing number.

iii. If no routing number or address appears in its indorsement, the depositary bank must accept a paper returned check at any branch or head office of the bank. Section 229.35 and applicable industry standards require that the indorsement contain a routing number, a name, and a location. Consequently paragraphs (c)(1)(ii)(B) and (C) of this section apply only where the depositary bank has failed to comply with the indorsement requirement.

3. For ease of processing, a depositary bank may require that returning banks or paying banks returning checks to it separate returned checks from forward collection checks being presented.

D. 229.33(d) Acceptance Oral Notices of Nonpayment

In the case of telephone notices, the depositary bank may not refuse to accept notices at the telephone numbers identified in this section, but may transfer calls or use a recording device.

E. 229.33(e) Payment

1. As discussed in the commentary to § 229.32(e), under this regulation a paying bank or returning bank does not obtain credit for a returned check by charge-back but by, in effect, ''presenting'' the returned check to the depositary bank. This paragraph imposes an obligation to ''pay'' a returned check that is similar to the obligation to pay a forward collection check by a paying bank, except that the depositary bank may not return a returned check for which it is the depositary bank. Also, certain means of payment, such as remittance drafts, may be used only by agreement.

2. The depositary bank must pay for a returned check by the close of the banking day on which it received the returned check. The day on which a returned check is received is determined pursuant to UCC 4–108, which permits the bank to establish a cut-off hour, generally not earlier than 2 p.m. (local time of the depositary bank), and treat checks received after that hour as being received on the next banking day. If the depositary bank is unable to make payment to a returning bank or paying bank on the banking day that it receives the returned

check, because the returning bank or paying bank is closed for a holiday or because the time when the depositary bank received the check is after the close of Fedwire, *e.g.,* west coast banks with late cut-off hours, payment may be made on the next banking day of the bank receiving payment.

3. Payment must be made so that the funds are available for use by the bank returning the check to the depositary bank on the day the check is received by the depositary bank. For example, a depositary bank meets this requirement if it sends a wire transfer to the returning bank or paying bank on the day it receives the returned check, even if the returning bank or paying bank has closed for the day. A wire transfer should indicate the purpose of the payment.

4. The depositary bank may use a net settlement arrangement to settle for a returned check. Banks with net settlement agreements could net the appropriate credits and debits for returned checks with the accounting entries for forward collection checks if they so desired. If, for purposes of establishing additional controls or for other reasons, the banks involved desired a separate settlement for returned checks, a separate net settlement agreement could be established.

5. The bank sending the returned check to the depositary bank may agree to accept payment at a later date if, for example, it does not believe that the amount of the returned check or checks warrants the costs of same-day payment. Thus, a returning bank or paying bank may agree to accept payment through an ACH credit or debit transfer that settles the day after the returned check is received instead of a wire transfer that settles on the same day.

6. This paragraph and this subpart do not affect the depositary bank's right to recover a provisional settlement with its nonbank customer for a check that is returned. (See also §§ 229.19(c)(2)(ii), 229.33(h), and 229.35(b)).

F. 229.33(f) Misrouted Returned Checks and Written Notices of Nonpayment

1. This paragraph permits a bank receiving a check or written notice of nonpayment (either in paper form or electronic form) on the basis that it is the depositary bank to send the misrouted returned check or written notice of nonpayment to the correct depositary bank, if it can identify the correct depositary bank, either directly or through a returning bank agreeing to handle the check or written notice of nonpayment. When sending a returned check under this paragraph, the bank receiving the misrouted check is acting as a returning bank. Alternatively, the bank receiving the misrouted returned check or written notice of nonpayment must send the check or notice back to the bank from which it was received.

2. In sending a misrouted returned check, the bank to which the returned check was misrouted (the incorrect depositary bank) could receive settlement from the bank to which it sends the misrouted check under § 229.33(f) (the correct depositary bank, a returning bank that agrees to handle it, or the bank from which the misrouted check was received). The correct depositary bank would be required to pay for the returned check under § 229.33(e), and any other bank to which the check is sent under this paragraph would be required to settle for the check as a returning bank under § 229.32(e). The bank to which the returned check was misrouted is required to act promptly, *i.e.,* within its midnight deadline. This paragraph does not affect a bank's duties under § 229.35(b).

G. 229.33(g) Charges

1. This paragraph prohibits a depositary bank from charging the equivalent of a presentment fee for returned checks. A returning bank, however, may charge a fee for handling returned checks. If the returning bank receives a mixed cash letter of returned checks, which includes some checks for which the returning bank also is the depositary bank, the fee may be applied to all the returned checks in the cash letter. In the case of a sorted cash letter containing only returned checks for which the returning bank is the depositary bank, however, no fee may be charged.

H. 229.33(h) Notification to Customer

1. This paragraph requires a depositary bank to notify its customer of nonpayment upon receipt of a returned check or notice of nonpayment. Notice also must be given if a depositary bank receives a notice of recovery under § 229.35(b). A bank that chooses to provide the notice required by § 229.33(h) in writing may send the notice by email or facsimile if the bank sends the notice to the email address or facsimile number specified by the customer for that purpose. The notice to the customer required under this paragraph also may satisfy the notice requirement of § 229.13(g) if the depositary bank invokes the reasonable-cause exception of § 229.13(e) due to the receipt of a notice of nonpayment, provided the notice meets all the requirements of § 229.13(g).

XX. Section 229.34 Warranties and Indemnities

A. Introduction

1. Unless otherwise specified, warranties that apply to checks or returned checks also apply to electronic checks and electronic returned checks, including under paragraphs (b) (transfer and presentment warranties with respect to remotely created checks), (c) (settlement amount, encoding, and offset warranties), (d) (returned check warranties), and (e) (notice of nonpayment warranties). (See § 229.30(a) and commentary thereto). Paragraph (f), however, sets forth remote deposit capture indemnities provided to banks that accept an original check for deposit for losses incurred by that depositary bank if the loss is due to the check having already been paid. Paragraph (a) sets forth warranties that are given only with respect to electronic checks and electronic returned checks. Paragraph (g) sets forth indemnities with respect to electronically created items.

B. 229.34(a) Warranties With Respect to Electronic Checks and Electronic Returned Checks

1. Paragraph (a) of § 229.34 sets forth the warranties that a bank makes when transferring or presenting an electronic check or electronic returned check and receiving settlement or other consideration for it. Electronic checks and electronic returned checks sent pursuant to an agreement with the receiving bank are treated as checks subject to subpart C. Therefore, the warranties in § 229.34(a) are in addition to any warranties a bank makes under paragraphs (b), (c), (d), and (e) with respect to an electronic check or electronic returned check. For example, a bank that transfers and receives consideration for an electronic check that is derived from a remotely created check warrants that the remotely created check, from which the electronic check is derived, is authorized by the person on whose account the check is drawn.

2. The warranties in § 229.34(a)(1) relate to a subsequent bank's ability to create a substitute check. This paragraph provides a bank that creates a substitute check from an electronic check or electronic returned check with a warranty claim against any prior bank that transferred the electronic check or electronic returned check. The warranties in this paragraph correspond to the warranties made by a bank that transfers, presents, or returns a substitute check (a paper or electronic representation of a substitute check) for which it receives consideration. (See § 229.52 and commentary thereto). A bank that transfers an electronic check or electronic returned check that is an electronic representation of a substitute check also makes the warranties and indemnities in §§ 229.52 and 229.53.

3. By agreement, a sending and receiving bank may vary the warranties the sending bank makes to the receiving bank for electronic images of or electronic information related to checks, for example, to provide that the bank transferring the check does not warrant that the electronic image or information is sufficient for creating a substitute check. (See § 229.37(a)). The variation by agreement, however, would not affect the rights of banks and persons that are not bound by the agreement.

C. 229.34(b) Transfer and Presentment Warranties With Respect to a Remotely Created Check

1. A bank that transfers or presents a remotely created check and receives a settlement or other consideration warrants that the person on whose account the check is drawn authorized the issuance of the check in the amount stated on the check and to the payee stated on the check. The warranties are given only by banks and only to subsequent banks in the collection chain. The warranties ultimately shift liability for the loss created by an unauthorized remotely created check to the depositary bank. The depositary bank cannot assert the transfer and presentment warranties against a depositor. However, a depositary bank may, by agreement, allocate liability for such an item to the depositor and also may have a claim under other laws against that person. The Federal Trade Commission's Telemarketing Sales Rule (16 CFR part 310) contains further regulatory provisions regarding remotely created checks.

2. The scope of the transfer and presentment warranties for remotely created

checks differs from that of the corresponding UCC warranty provisions in two respects. The UCC warranties are given by any person, including a nonbank depositor, that transfers a remotely created check and not just to a bank, as is the case under § 229.34(b). In addition, the UCC warranties state that the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn. The § 229.34(b) warranties specifically cover the amount as well as the payee stated on the check. Neither the UCC warranties, nor the § 229.34(b) warranties, apply to the date stated on the remotely created check.

3. A bank making the § 229.34(b) warranties may defend a claim asserting violation of the warranties by proving that the customer of the paying bank is precluded by UCC 4–406 from making a claim against the paying bank. This may be the case, for example, if the customer failed to discover the unauthorized remotely created check in a timely manner.

4. The transfer and presentment warranties for a remotely created check apply to a remotely created check that has been converted to an electronic check or reconverted to a substitute check.

D. 229.34(c) Settlement Amount, Encoding, and Offset Warranties

1. Paragraph (c)(1) provides that a bank that presents and receives settlement for checks warrants to the paying bank that the settlement it demands (*e.g.,* as noted on the cash letter or in the electronic cash letter file) equals the total amount of the checks it presents. This paragraph gives the paying bank a warranty claim against the presenting bank for the amount of any excess settlement made on the basis of the amount demanded, plus expenses. If the amount demanded is understated, a paying bank discharges its settlement obligation under UCC 4–301 by paying the amount demanded, but remains liable for the amount by which the demand is understated; the presenting bank is nevertheless liable for expenses in resolving the adjustment.

2. When checks or returned checks are transferred to a collecting bank, returning bank, or depositary bank, the transferor bank is not required to demand settlement, as is required upon presentment to the paying bank. However, often the checks or returned checks will be accompanied by information (such as a cash letter listing or cash letter control record) that will indicate the total of the checks or returned checks. Paragraph (c)(2) provides that if the transferor bank includes information indicating the total amount of checks or returned checks transferred, it warrants that the information is correct (*i.e.,* equals the actual total of the items).

3. Paragraph (c)(3) provides that a bank that presents or transfers a check or returned check warrants the accuracy of information encoded regarding the check after issue, and that exists at the time of presentment or transfer, to any bank that subsequently handles the check or returned check. Paragraph (c)(3) applies to all MICR-line encoding on a paper check, substitute check, or contained in an electronic check or electronic returned check. Under UCC 4–209(a), only the encoder (or the encoder and the depositary bank, if the encoder is a customer of the depositary bank) warrants the encoding accuracy, thus any claims on the warranty must be directed to the encoder. Paragraph (c)(3) expands on the UCC by providing that all banks that transfer or present a check or returned check make the encoding warranty. In addition, under the UCC, the encoder makes the warranty to subsequent collecting banks and the paying bank, while paragraph (c)(3) provides that the warranty is made to banks in the return chain as well.

4. A paying bank that settles for an overstated cash letter because of a misencoded check may make a warranty claim against the presenting bank under paragraph (c)(1) (which would require the paying bank to show that the check was part of the overstated cash letter) or an encoding warranty claim under paragraph (c)(3) against the presenting bank or any preceding bank that handled the misencoded check.

5. Paragraph (c)(4) provides that a paying bank or a depositary bank may set off excess settlement paid to another bank against settlement owed to that bank for checks presented or returned checks received (for which it is the depositary bank) subsequent to the excess settlement.

E. 229.34(d) Returned Check Warranties

1. This paragraph includes warranties that a returned check, including a notice in lieu of return or an electronic returned check, was returned by the paying bank, or in the case of a check payable by a bank and payable through another bank, the bank by which the check is payable, within the deadline under the UCC (subject to any claims or defenses under the UCC, such as breach of a presentment warranty) or § 229.31(g); that the paying bank or returning bank is authorized to return the check; that the returned check has not been materially altered; and that, in the case of a notice in lieu of return, the check has not been and will not be returned for payment. (See commentary to § 229.31(f)). The warranty does not include a warranty that the bank complied with the expeditious return requirements of §§ 229.31(b) and 229.32(b). These warranties do not apply to checks drawn on the United States Treasury, to U.S. Postal Service money orders, or to checks drawn on a state or a unit of general local government that are not payable through or at a bank. (See § 229.42).

F. 229.34(e) Notice of Nonpayment Warranties

1. This paragraph sets forth warranties for notices of nonpayment. This warranty does not include a warranty that the notice is accurate and timely under § 229.31(c). The requirements of § 229.31(c) that are not covered by the warranty are subject to the liability provisions of § 229.38. These warranties are designed to protect depositary banks that rely on notices of nonpayment. This paragraph imposes liability on a paying bank that gives notice of nonpayment and then subsequently does not return the check. (See commentary to § 229.31(c)).

G. 229.34(f) Remote Deposit Capture Indemnity

1. This indemnity provides for a depositary bank's potential liability when it permits a customer to deposit checks by remote deposit capture (*i.e.,* to truncate checks and deposit an electronic image of the original check instead of the original check). Because the depositary bank's customer retains the original check, that customer might, intentionally or mistakenly, deposit the original check in another depositary bank. The depositary bank that accepts the original check, in turn, may make funds available to the customer before it learns that the check is being returned unpaid and, in some cases, may be unable to recover the funds from its customer. Section 229.34(f) provides the depositary bank that accepts the original check for deposit with a claim against the depositary bank that did not receive the original check because it permitted its customer to truncate it, received settlement or other consideration for the check, and did not receive a return of the check unpaid. This claim exists only if the check is returned to the depositary bank that accepted the original check due to the fact that the check had already been paid.

2. Examples

a. Depositary Bank A offers its customers a remote deposit capture service that permits customers to take pictures of the front and back of their checks and send the image to the bank for deposit. Depositary Bank A accepts an image of the check from its customer and sends an electronic check for collection to Paying Bank. Paying Bank, in turn, pays the check. Depositary Bank A receives settlement for the check. The same customer who sent Depositary Bank A the electronic image of the check then deposits the original check in Depositary Bank B. There is no restrictive indorsement on the check. Depositary Bank B sends the original check (or a substitute check or electronic check) for collection and makes funds from the deposited check available to its customer. The customer withdraws the funds. Paying Bank returns the check to Depositary Bank B indicating that the check already had been paid. Depositary Bank B may be unable to charge back funds from its customer's account. Depositary Bank B may make an indemnity claim against Depositary Bank A for the amount of the funds Depositary Bank B is unable to recover from its customer.

b. The facts are the same as above with respect to Depositary Bank A and B; however, the original check deposited in Depositary Bank B bears a restrictive indorsement ''for mobile deposit at Depositary Bank A only'' and the customer's account number at Depositary Bank A. Depositary Bank B may not make an indemnity claim against Depositary Bank A because Depositary Bank B accepted the original check bearing a restrictive indorsement inconsistent with the means of deposit.

c. The facts are the same as above with respect to Depositary Bank A; however, Depositary Bank B also offers a remote deposit capture service to its customer. The customer uses Depositary Bank B's remote

deposit capture service to send an electronic image of the front and back of the check, after sending the same image to Depositary Bank A. The customer deposits the original check into Depositary Bank C without a restrictive indorsement. Paying Bank pays the check based on the image presented by Depositary Bank A, and Depositary Bank A receives settlement for the check without the check being returned unpaid to it. Paying Bank returns the checks presented by Depositary Bank B and Depositary Bank C. Neither Depositary Bank B nor Depositary Bank C can recover the funds from the deposited check from the customer. Depositary Bank B does not have an indemnity claim against Depositary Bank A because Depositary Bank B did not receive the original check for deposit. Depositary Bank C, however, would be able to bring an indemnity claim against Depositary Bank A.

3. A depositary bank may, by agreement, allocate liability for loss incurred from subsequent deposit of the original check to its customer that sent the electronic check related to the original check to the depositary bank.

H. 229.34(g) Indemnities With Respect to Electronically-Created Items

1. As a practical matter a bank receiving an electronic image generally cannot distinguish an image that is derived from a paper check from an electronically-created item. Nonetheless, the bank receiving the electronically-created item often handles the electronically-created image as if it were derived from a paper check.

2. Paragraph (g) of § 229.34 sets forth the indemnities that a bank provides when transferring or presenting an electronically-created item and receiving settlement or other consideration for it. The indemnities set forth in § 229.34(g) are provided only by banks and only to subsequent banks in the collection chain. The indemnities ultimately shift liability for losses to the depositary bank due to the fact the electronically created item is not derived from a paper check, was unauthorized, or was transferred or presented for payment more than once. (See § 229.34(i) and commentary thereto). The depositary bank cannot assert the indemnities set forth in § 229.34(g) against a depositor. However, a depositary bank may, by agreement, allocate liability for such an item to the depositor and also may have a claim under other laws against that person.

2. The paying bank's losses in paragraph (g)(1) of this section include losses arising from Regulation E non-compliance caused by the receipt of an electronically-created item.

3. Under paragraphs (g)(2) and (3), indemnified banks have a claim for damages pursuant to § 229.34(i) regardless of whether the damages would have occurred if the item transferred had been derived from a paper check.

3. Examples

a. A paying bank pays an electronically-created item, which the paying bank's customer subsequently claims is unauthorized. The paying bank may incur liability on the item due to the fact the item is electronically created and not derived from a paper check. For example, the paying bank may have no means of disputing the customer's claim without examining the physical check, which does not exist. The indemnity in § 229.34(g) enables the paying bank to recover from the presenting bank or any prior transferor bank for the amount of its loss, as permitted under § 229.34(i), due to receiving the electronically-created item.

b. A bank receives an electronic image of and electronic information related to an electronically-created item and, in turn, produces a paper item that is indistinguishable from a substitute check. The paper item is not a substitute check because the item is not derived from an original, paper check. That bank may incur a loss because it cannot produce the legal equivalent of a check (See § 229.53 and commentary thereto). The indemnity in § 229.34(g) enables a bank that received the electronically-created item to recover from the bank sending the check for the amount of the loss permitted under § 229.34(i).

c. A paying bank is not required by § 229.31(b) to return an electronically-created item expeditiously. The depositary bank incurs a loss because it receives the return of the electronically-created item unexpeditiously and is unable to recover funds previously made available to its customer. The depositary bank is not an indemnified party under § 229.34(g) and therefore cannot recover its loss pursuant to that indemnity.

I. 229.34(h) Damages

1. This paragraph adopts for the warranties in § 229.34(a), (b), (c), (d), and (e) the damages provided in UCC 4–207(c) and 4A–506(b). (See definition of interest compensation in § 229.2(oo)).

J. 229.34(i) Indemnity Amounts

1. This paragraph adopts for the amount of the indemnities provided for in § 229.34(f)(2) and (g) an amount comparable to the damages provided in § 229.53(b)(1)(ii) of subpart D of this regulation.

2. The amount of an indemnity would be reduced in proportion to the amount of any loss attributable to the indemnified person's negligence or bad faith. This comparative-negligence standard is intended to allocate liability in the same manner as the comparative negligence provision of § 229.38(c).

3. An indemnified bank may be able to make an indemnity claim against more than one indemnifying depositary bank. However, an indemnified bank may not recover in the aggregate across all indemnifying banks more than the amount described in this paragraph. Therefore, an indemnified bank that recovers the amount of its loss from one indemnifying depositary bank under this paragraph no longer has a loss that it can collect from a different indemnifying depositary bank.

K. 229.34(j) Tender of Defense

1. This paragraph adopts for this regulation the vouching-in provisions of UCC 3–119.

L. 229.34(k) Notice of Claim

1. This paragraph adopts the notice provisions of UCC sections 4–207(d) and 4–208(e) and applies them to this section's indemnities and warranties. The time limit set forth in this paragraph applies to notices of claims for warranty breaches and for indemnities. As provided in § 229.38(g), all actions under this section must be brought within one year after the date of the occurrence of the violation involved.

XXI. Section 229.35 Indorsements

A. 229.35(a) Indorsement Standards

1. This section requires banks to use a standard form of indorsement when indorsing checks during the forward collection and return process. It is designed to facilitate the identification of the depositary bank and the prompt return of checks. The indorsement standard a bank must use depends on the type of check being indorsed. Paper checks must be indorsed in accordance with ANS X9.100–111. Substitute checks must be indorsed in accordance with ANS X9.100–140. Electronic checks must be indorsed in accordance ANS X9.100–187. The Board, however, may by rule or order determine that different standards apply.

2. The parties sending and receiving a check may agree that different indorsement standards will apply to such checks. For example, although ANS X9.100–187 is an industry standard for banks' exchange of electronic checks, the parties may agree to send and receive electronic checks that conform to a different standard.

3. Banks generally apply indorsements to a paper check in one of two ways: (1) In accordance with ANS X9.100–111, banks print or ''spray'' indorsements onto a paper check when the check is processed through the banks' automated check sorters (regardless of whether the checks are original checks or substitute checks), and (2) in accordance with ANS X9.100–140, reconverting banks print or ''overlay'' previously applied electronic indorsements and their own indorsements and identifications onto a substitute check at the time that the substitute check is created. If a subsequent substitute check is created in the course of collection or return, that substitute check will contain, in its image of the back of the previous substitute check, reproductions of indorsements that were sprayed or overlaid onto the previous item.

4. A bank might use check-processing equipment that captures an image of a check prior to spraying an indorsement onto that item. If the bank truncates that item, it should ensure that it also applies an indorsement to the item electronically. A reconverting bank satisfies its obligation to preserve all previously applied indorsements by overlaying a bank's indorsement that previously was applied electronically onto a substitute check that the reconverting bank creates. (See commentary to § 229.51(b)).

5. A depositary bank may want to include an address in its indorsement in order to limit the number of locations at which it must receive paper returned checks and paper notices of nonpayment. Banks should note, however, that § 229.33(c) requires a depositary bank to receive paper returned checks at the location(s) at which it receives paper forward-collection checks, as well as the other locations enumerated in § 229.33(c). (See § 229.33(c) and commentary thereto).

6. Under the UCC, a specific guarantee of prior indorsement is not necessary. (See UCC 4–207(a) and 4–208(a)). Use of guarantee language in indorsements of paper checks, such as ''P.E.G.'' (''prior endorsements guaranteed''), may result in reducing the type size used in bank indorsements, thereby making them more difficult to read. Use of this language may make it more difficult for other banks to identify the depositary bank.

7. If the bank maintaining the account into which a check is deposited agrees with another bank (a correspondent, ATM operator, or lock box operator) to have the other bank accept returns and notices of nonpayment for the bank of account, the indorsement placed on the check as the depositary bank indorsement may be the indorsement of the bank that acts as correspondent, ATM operator, or lock box operator as provided in paragraph (d) of § 229.35.

8. In general, paper checks will be handled more efficiently if depositary banks place their indorsement so that the nine-digit routing number is not obscured by pre-existing matter on the back of the check. Indorsing parties other than banks, *e.g.,* corporations, will benefit from the faster return of checks if they protect the identifiability and legibility of the depositary bank indorsement by staying clear of the area on the back of the paper check reserved for the depositary bank indorsement.

9. A paying bank is not required to indorse the check; however, if a paying bank does indorse a check that is returned, it should follow the indorsement standards for collecting banks and returning banks. Collecting banks and returning banks are required to indorse the check for tracing purposes. With respect to the identification of a paying bank that is also a reconverting bank, see commentary to § 229.51(b)(2).

B. 229.35(b) Liability of Bank Handling Check

1. When a check is sent for forward collection, the collection process results in a chain of indorsements extending from the depositary bank through any subsequent collecting banks to the paying bank. This paragraph extends the indorsement chain through the paying bank to the returning banks, and would permit each bank to recover from any prior indorser if the claimant bank does not receive payment for the check from a subsequent bank in the collection or return chain. For example, if a returning bank returned a check to an insolvent depositary bank, and did not receive the full amount of the check from the failed bank, the returning bank could obtain the unrecovered amount of the check from any bank prior to it in the collection and return chain including the paying bank. Because each bank in the collection and return chain could recover from a prior bank, any loss would fall on the first intermediary collecting bank that received the check from the depositary bank. To avoid circuity of actions, the returning bank could recover directly from the first collecting bank. Under the UCC, the first collecting bank might ultimately recover from the depositary bank's customer or from the other parties on the check.

2. Where a check is returned through the same banks used for the forward collection of the check, priority during the forward collection process controls over priority in the return process for the purpose of determining prior and subsequent banks under this regulation.

3. Where a returning bank is insolvent and fails to pay the paying bank or a prior returning bank for a returned check, § 229.39(a) requires the receiver of the failed bank to return the check to the bank that transferred the check to the failed bank. That bank then either could continue the return to the depositary bank or recover based on this paragraph. Where the paying bank is insolvent, and fails to pay the collecting bank, the collecting bank also could recover from a prior collecting bank under this paragraph, and the bank from which it recovered could in turn recover from its prior collecting bank until the loss settled on the depositary bank (which could recover from its customer).

4. A bank is not required to make a claim against an insolvent bank before exercising its right to recovery under this paragraph. Recovery may be made by charge-back or by other means. This right of recovery also is permitted even where nonpayment of the check is the result of the claiming bank's negligence such as failure to make expeditious return, but the claiming bank remains liable for its negligence under § 229.38.

5. This liability to a bank that subsequently handles the check and does not receive payment for the check is imposed on a bank handling a check for collection or return regardless of whether the bank's indorsement appears on the check. Notice must be sent under this paragraph to a prior bank from which recovery is sought reasonably promptly after a bank learns that it did not receive payment from another bank, and learns the identity of the prior bank. Written notice reasonably identifying the check and the basis for recovery is sufficient if the check is not available. Receipt of notice by the bank against which the claim is made is not a precondition to recovery by charge-back or other means; however, a bank may be liable for negligence for failure to provide timely notice. A paying bank or returning bank also may recover from a prior collecting bank as provided in §§ 229.31(a) and 229.32(b) (in those cases where the paying bank is unable to identify the depositary bank). This paragraph does not affect a paying bank's accountability for a check under UCC 4–215(a) and 4–302. Nor does this paragraph affect a collecting bank's accountability under UCC 4–214 and 4–215(d). A collecting bank becomes accountable upon receipt of final settlement as provided in the foregoing UCC sections. Final settlement in §§ 229.32(e), 229.33(e), and 229.36(c) is intended to be consistent with final settlement in the UCC (*e.g.,* UCC 4–213, 4–214, and 4–215). (See also § 229.2(cc) (definition of returning bank) and commentary thereto).

6. This paragraph also provides that a bank may have the rights of a holder based on the handling of a check for collection or return. A bank may become a holder or a holder in due course regardless of whether prior banks have complied with the indorsement standard in § 229.35(a).

7. This paragraph affects the following provisions of the UCC, and may affect other provisions depending on circumstance:

a. Section 4–214(a), in that the right to recovery is not based on provisional settlement, and recovery may be had from any prior bank. Section 4–214(a) would continue to permit a depositary bank to recover a provisional settlement from its customer. (See § 229.33(h)).

b. Section 3–415 and related provisions (such as section 3–503), in that such provisions would not apply as between banks, or as between the depositary bank and its customer.

C. 229.35(c) Indorsement by Bank

1. This section protects the rights of a customer depositing a check in a bank without requiring the words ''pay any bank,'' as required by the UCC (See UCC 4–201(b)). Use of this language in a depositary bank's indorsement will make it more difficult for other banks to identify the depositary bank. The applicable industry standard prohibits such material in subsequent collecting bank indorsements. The existence of a bank indorsement provides notice of the restrictive indorsement without any additional words.

D. 229.35(d) Indorsement for Depositary Bank

1. This section permits a depositary bank to arrange with another bank to indorse checks. This practice may occur when a correspondent indorses for a respondent, or when the bank servicing an ATM or lock box indorses for the bank maintaining the account in which the check is deposited—*i.e.,* the depositary bank. If the indorsing bank applies the depositary bank's indorsement, checks will be returned to the depositary bank. An indorsing bank may by agreement with the depositary bank apply its own indorsement as the depositary bank indorsement. In that case, the actual depositary bank's own indorsement on the check (if any) should avoid the location reserved for the depositary bank. The actual depositary bank remains responsible for the availability and other requirements of subpart B, but the bank indorsing as depositary bank is considered the depositary bank for purposes of subpart C (*e.g.,* for purposes of determining the right to assert a claim under § 229.33(a) for failure to return a check expeditiously and accepting paper checks under § 229.33(c)). The check will be returned, and notice of nonpayment will be given, to the bank indorsing as depositary bank.

2. Because the depositary bank for subpart B purposes will desire prompt notice of nonpayment, its arrangement with the indorsing bank should provide for prompt notice of nonpayment. The bank indorsing as depositary bank may require the depositary bank to agree to take up the check if the check is not paid even if the depositary bank's indorsement does not appear on the check and it did not handle the check. The arrangement between the banks may constitute an agreement varying the effect of provisions of subpart C under § 229.37.

XXII. Section 229.36 Presentment and Issuance of Checks

A. 229.36(a) Receipt of Electronic Checks

1. A paying bank may agree to accept presentment of electronic checks. (See § 229.2(ggg) and commentary thereto). The paying bank's acceptance of such electronic checks is governed by the paying bank's agreement with the bank sending the electronic check to the paying bank. The terms of these agreements are determined by the parties and may include, for example, the electronic address or electronic receipt point at which the paying bank agrees to accept electronic checks, as well as when presentment occurs. The agreement also may specify whether electronic checks sent for forward collection must be separated from electronic returned checks.

B. 229.36(b) Receipt of Paper Checks

1. The paragraph specifies four locations at which the paying bank must accept presentment of paper checks. Where the check is payable through a bank and the check is sent to that bank, the payable-through bank is the paying bank for purposes of this subpart, regardless of whether the paying bank must present the check to another bank or to a nonbank payor for payment.

a. Delivery of paper checks may be made, and presentment is considered to occur, at a location (including a processing center) requested by the paying bank. This provision adopts the common law rule that the processing center acts as the agent of the paying bank to accept presentment and to begin the time for processing of the check. (See also UCC 4–204(c)). If a bank designates different locations for the presentment of forward collection paper checks bearing different routing numbers, for purposes of this paragraph it requests presentment of paper checks bearing a particular routing number only at the location designated for receipt of forward collection paper checks bearing that routing number.

b. If the check specifies the name and address of a branch or head office, or other location (such as a processing center), the paper check may be delivered to that office or other location. If the address is too general to identify a particular office, delivery may be made at any office consistent with the address. For example, if the address is ''San Francisco, California,'' each office in San Francisco must accept presentment of paper checks. The designation of an address on the check generally is in the control of the paying bank.

c. i. Delivery of a paper check may be made at an office of the bank associated with the routing number on the check. In the case of a substitute check, delivery may be made at an office of the bank associated with the routing number in the electronic check from which it was derived. The office associated with the routing number of a bank is found in *American Bankers Association Key to Routing Numbers,* published by an agent of the American Bankers Association, which lists a city and state address for each routing number. Paper checks generally are handled by collecting banks on the basis of the nine-digit routing number contained in the MICR line (or on the basis of the fractional form routing number if the MICR line is obliterated) on the check, rather than the printed name or address. The definition of a paying bank in § 229.2(z) includes a bank designated by routing number, whether or not there is a name on the check, and whether or not any name is consistent with the routing number. Where a check is payable by one bank, but payable through another, the routing number is that of the payable-through bank, not that of the payor bank. In these cases, the payor bank has selected the payable-through bank as the point through which presentment of paper checks is to be made.

ii. There is no requirement in the regulation that the name and address on the check agree with the address associated with the routing number on the check. A bank generally may control the use of its routing number, just as it does the use of its name. The address associated with the routing number may be a processing center.

iii. In some cases, a paying bank may have several offices in the city associated with the routing number. In such case, it would not be reasonable or efficient to require the presenting bank to sort paper checks by more specific branch addresses that might be printed on the checks, and to deliver paper checks to each branch. A collecting bank normally would deliver all paper checks to one location. In cases where paper checks are delivered to a branch other than the branch on which they may be drawn, computer and courier communication among branches should permit the paying bank to determine quickly whether to pay the check.

d. If the paper check specifies the name of the paying bank but no address, the bank must accept delivery at any office. Where delivery is made by a person other than a bank, or where the routing number is not readable, delivery will be made based on the name and address of the paying bank on the check. If there is no address, delivery may be made at any office of the paying bank. This provision is consistent with UCC 3–111, which states that presentment for payment may be made at the place specified in the instrument, or, if there is none, at the place of business of the party to pay.

2. This paragraph may affect UCC 3–111 to the extent that the UCC requires presentment to occur at a place specified in the instrument.

C. 229.36(c) Liability of Bank During Forward Collection

1. This paragraph makes settlement between banks during forward collection final when made, subject to any deferment of credit, just as settlements between banks during the return of checks are final. In addition, this paragraph clarifies that this change does not affect the liability scheme under UCC 4–201 during forward collection of a check. That UCC section provides that, unless a contrary intent clearly appears, a bank is an agent or subagent of the owner of a check, but that Article 4 of the UCC applies even though a bank may have purchased an item and is the owner of it. This paragraph preserves the liability of a collecting bank to prior collecting banks and the depositary bank's customer for negligence during the forward collection of a check under the UCC, even though this paragraph provides that settlement between banks during forward collection is final rather than provisional. Settlement by a paying bank is not considered to be final payment for the purposes of UCC 4–215(a)(2) or (3), because a paying bank has the right to recover settlement from a returning bank or depositary bank to which it returns a check under this subpart. Other provisions of the UCC not superseded by this subpart, such as section 4–202, also continue to apply to the forward collection of a check and may apply to the return of a check. (See definition of returning bank in § 229.2(cc)).

D. 229.36(d) Same-Day Settlement

1. This paragraph governs settlement for presentment of paper checks. Settlement for presentment of electronic checks is governed by the agreement of the parties. (See § 229.36(a) and commentary thereto). This paragraph provides that, under certain conditions, a paying bank must settle with a presenting bank for a paper check on the same day the paper check is presented in order to avail itself of the ability to return the paper check on its next banking day under UCC 4–301 and 4–302. This paragraph does not apply to paper checks presented for immediate payment over the counter. Settling for a paper check under this paragraph does not constitute final payment of the paper check under the UCC. This paragraph does not supersede or limit the rules governing collection and return of paper checks through Federal Reserve Banks that are contained in subpart A of Regulation J (12 CFR part 210).

2. Presentment Requirements

a. Location and Time

i. For presented paper checks to qualify for mandatory same-day settlement, information accompanying the paper checks must indicate that presentment is being made under this paragraph—*e.g.* ''these checks are being presented for same-day settlement''—and must include a demand for payment of the total amount of the checks together with appropriate payment instructions in order to enable the paying bank to discharge its settlement responsibilities under this paragraph. In addition, the paper check or checks must be presented at a location designated by the paying bank for receipt of paper checks for same-day settlement by 8 a.m. local time of that location. The designated presentment location must be a location at which the paying bank would be considered to have received a paper check under § 229.36(b). The paying bank may not designate a location solely for presentment of paper checks subject to settlement under this paragraph; by designating a location for the purposes of § 229.36(d), the paying bank agrees to accept paper checks at that location for the purposes of § 229.36(b).

ii. If the paying bank does not designate a presentment location, it must accept presentment of paper check for same-day settlement at any location identified in § 229.36(b), *i.e.,* at an address of the bank

associated with the routing number on the check, at any branch or head office if the bank is identified on the check by name without address, or at a branch, head office, or other location consistent with the name and address of the bank on the check if the bank is identified on the check by name and address. A paying bank and a presenting bank may agree that paper checks will be accepted for same-day settlement at an alternative location or that the cut-off time for same-day settlement be earlier or later than 8 a.m. local time of the presentment location.

iii. In the case of a paper check payable through a bank but payable by another bank, this paragraph does not authorize direct presentment to the bank by which the paper check is payable. The requirements of same-day settlement under this paragraph would apply to a payable-through or payable-at bank to which the paper check is sent for payment or collection.

b. Reasonable delivery requirements. A paper check is considered presented when it is delivered to and payment is demanded at a location specified in paragraph (d)(1). Ordinarily, a presenting bank will find it necessary to contact the paying bank to determine the appropriate presentment location and any delivery instructions. Further, because presentment might not take place during the paying bank's banking day, a paying bank may establish reasonable delivery requirements to safeguard the paper checks presented, such as use of a night depository. If a presenting bank fails to follow reasonable delivery requirements established by the paying bank, it runs the risk that it will not have presented the paper checks. However, if no reasonable delivery requirements are established or if the paying bank does not make provisions for accepting delivery of checks during its non-business hours, leaving the paper checks at the presentment location constitutes effective presentment.

c. Sorting of checks. A paying bank may require that paper checks presented to it for same-day settlement be sorted separately from other forward collection paper checks it receives as a collecting bank or paper returned checks it receives as a returning bank or depositary bank. For example, if a bank provides correspondent check collection services and receives unsorted paper checks from a respondent bank that include paper checks for which it is the paying bank and that would otherwise meet the requirements for same-day settlement under this section, the collecting bank need not make settlement in accordance with paragraph (d)(3). If the collecting bank receives sorted paper checks from its respondent bank, consisting only of paper checks for which the collecting bank is the paying bank and that meet the requirements for same-day settlement under this paragraph, the collecting bank may not charge a fee for handling those paper checks and must make settlement in accordance with this paragraph.

3. Settlement

a. If a bank presents a paper check in accordance with the time and location requirements for presentment under paragraph (d)(1), the paying bank either must settle for the paper check on the business day it receives the paper check without charging a presentment fee or return the paper check prior to the time for settlement. (This return deadline is subject to extension under § 229.31(g).) The settlement must be in the form of a credit to an account designated by the presenting bank at a Federal Reserve Bank (*e.g.,* a Fedwire transfer), unless the presenting bank agrees with the paying bank to accept settlement in another form (*e.g.,* credit to an account of the presenting bank at the paying bank or debit to an account of the paying bank at the presenting bank). The settlement must occur by the close of Fedwire on the business day the paper check is received by the paying bank. Under the provisions of § 229.34(c), a settlement owed to a presenting bank may be set off by adjustments for previous settlements with the presenting bank. (See also § 229.39(d)).

b. Paper checks that are presented after the 8 a.m. (local time of the location at which the paper checks are presented) presentment deadline for same-day settlement and before the paying bank's cut-off hour are treated as if they were presented under other applicable law and settled for or returned accordingly. However, for purposes of settlement only, the presenting bank may require the paying bank to treat such paper checks as presented for same-day settlement on the next business day in lieu of accepting settlement by cash or other means on the business day the paper checks are presented to the paying bank. Paper checks presented after the paying bank's cut-off hour or on non-business days, but otherwise in accordance with this paragraph, are considered presented for same-day settlement on the next business day.

4. Closed Paying Bank

a. There may be certain business days that are not banking days for the paying bank. Some paying banks may continue to settle for paper checks presented on these days (*e.g.,* by opening their back office operations). In other cases, a paying bank may be unable to settle for paper checks presented on a day it is closed. If the paying bank closes on a business day and paper checks are presented to the paying bank in accordance with paragraph (d)(1), the paying bank is accountable for the paper checks unless it settles for or returns the paper checks by the close of Fedwire on its next banking day. In addition, paper checks presented on a business day on which the paying bank is closed are considered received on the paying bank's next banking day for purposes of the UCC midnight deadline (UCC 4–301 and 4–302) and this regulation's expeditious return and notice of nonpayment provisions.

b. If the paying bank is closed on a business day voluntarily, the paying bank must pay interest compensation, as defined in § 229.2(oo), to the presenting bank for the value of the float associated with the paper check from the day of the voluntary closing until the day of settlement. Interest compensation is not required in the case of an involuntary closing on a business day, such as a closing required by state law. In addition, if the paying bank is closed on a business day due to emergency conditions, settlement delays and interest compensation may be excused under § 229.38(e) or UCC 4–109(b).

5. Good faith. Under § 229.38(a), both the presenting bank and paying bank are held to a standard of good faith, defined in § 229.2(nn) to mean honesty in fact and the observance of reasonable commercial standards of fair dealing. For example, designating a presentment location or changing presentment locations for the primary purpose of discouraging banks from presenting paper checks for same-day settlement might not be considered good faith on the part of the paying bank. Similarly, presenting a large volume of paper checks without prior notice could be viewed as not meeting reasonable commercial standards of fair dealing and therefore may not constitute presentment in good faith. In addition, if banks, in the general course of business, regularly agree to certain practices related to same-day settlement, it might not be considered consistent with reasonable commercial standards of fair dealing, and therefore might not be considered good faith, for a bank to refuse to agree to those practices if agreeing would not cause it harm.

6. UCC sections affected. This paragraph directly affects the following provisions of the UCC and may affect other sections or provisions:

a. Section 4–204(b)(1), in that a presenting bank may not send a paper check for same-day settlement directly to the paying bank, if the paying bank designates a different location in accordance with paragraph (d)(1).

b. Section 4–213(a), in that the medium of settlement for paper checks presented under this paragraph is limited to a credit to an account at a Federal Reserve Bank and that, for paper checks presented after the deadline for same-day settlement and before the paying bank's cut-off hour, the presenting bank may require settlement on the next business day in accordance with this paragraph rather than accept settlement on the business day of presentment by cash.

c. Section 4–301(a), in that, to preserve the ability to exercise deferred posting, the time limit specified in that section for settlement or return by a paying bank on the banking day a paper check is received is superseded by the requirement to settle for paper checks presented under this paragraph by the close of Fedwire.

d. Section 4–302(a), in that, to avoid accountability, the time limit specified in that section for settlement or return by a paying bank on the banking day a paper check is received is superseded by the requirement to settle for paper checks presented under this paragraph by the close of Fedwire.

XXIII. Section 229.37 Variations by Agreement

A. This section is similar to UCC 4–103, and permits consistent treatment of agreements varying Article 4 or Subpart C, given the substantial interrelationship of the two documents. To achieve consistency, the official comment to UCC 4–103(a) (which in turn follows UCC 1–201(3)) should be followed in construing this section. For example, as stated in Official Comment 2 to

UCC 4–103, owners of items and other interested parties are not affected by agreements under this section unless they are parties to the agreement or are bound by adoption, ratification, estoppel, or the like. In particular, agreements varying this subpart that delay the return of a check beyond the times required by this subpart may result in liability under § 229.38 to entities not party to the agreement.

B. The Board has not followed UCC 4–103(b), which permits Federal Reserve regulations and operating letters, clearinghouse rules, and the like to apply to parties that have not specifically assented. Nevertheless, this section does not affect the status of such agreements under the UCC.

C. The following are examples of situations where variation by agreement is permissible, subject to the limitations of this section:

1. A depositary bank may authorize another bank to apply the other bank's indorsement to a check as the depositary bank. (See § 229.35(d)).

2. A depositary bank may authorize returning banks to commingle paper qualified returned checks with paper forward collection checks. (See § 229.33(c)).

3. A depositary bank may limit its liability to its customer in connection with the late return of a deposited check where the lateness is caused by markings on the check by the depositary bank's customer or prior indorser in the area of the depositary bank indorsement. (See § 229.38(d)).

4. A paying bank may require its customer to assume the paying bank's liability for delayed or missent checks where the delay or missending is caused by markings placed on the check by the paying bank's customer that obscured a properly placed indorsement of the depositary bank. (See § 229.38(d)).

5. A collecting bank or paying bank may agree to accept forward collection checks without the indorsement of a prior intermediary collecting bank. (See § 229.35(a)).

6. A bank may agree to accept returned checks without the indorsement of a prior bank. (See § 229.35(a)).

7. A presenting bank may agree with a paying bank to present paper checks for same-day settlement by a deadline earlier or later than 8 a.m. (See § 229.36(d)(1)(ii)).

8. A presenting bank and a paying bank may agree that presentment takes place when the paying bank receives an electronic transmission of information describing the check rather than upon delivery of the physical check. (See § 229.36(b)).

9. A depositary bank may agree with a paying bank or returning bank to accept an image or other notice in lieu of a returned check even when the check is available for return under this part. Except to the extent that other parties interested in the check assent to or are bound by the variation of the notice-in-lieu provisions of this part, a depositary bank entering into such an agreement may be responsible under this part or other applicable law to other interested parties for any losses caused by the acceptance of an image or notice in lieu of a returned check. (See §§ 229.31(f) and 229.38(a)).

D. The Board expects to review the types of variation by agreement that develop under this section and will consider whether it is necessary to limit certain variations.

XXIV. Section 229.38 Liability

A. 229.38(a) Standard of Care; Liability; Measure of Damages

1. The standard of care established by this section applies to any bank covered by the requirements of subpart C of the regulation. Thus, the standard of care applies to a paying bank under §§ 229.31, to a returning bank under § 229.32, to a depositary bank under §§ 229.33, to a bank erroneously receiving a returned check or written notice of nonpayment as depositary bank under § 229.33(f), and to a bank indorsing a check under § 229.35. The standard of care is similar to the standard imposed by UCC 1–203 and 4–103(a) and includes a duty to act in good faith, as defined in § 229.2(nn) of this regulation.

2. A bank not meeting this standard of care is liable to the depositary bank, the depositary bank's customer, the owner of the check, or another party to the check. The depositary bank's customer is usually a depositor of a check in the depositary bank (but see § 229.35(d)). The measure of damages provided in this section (loss incurred up to amount of check, less amount of loss party would have incurred even if bank had exercised ordinary care) is based on UCC 4–103(e) (amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care), as limited by 4–202(c) (bank is liable only for its own negligence and not for actions of subsequent banks in chain of collection). This subpart does not absolve a collecting bank of liability to prior collecting banks under UCC 4–201.

3. Under this measure of damages, a depositary bank or other person must show that the damage incurred results from the negligence proved. For example, the depositary bank may not simply claim that its customer will not accept a charge-back of a returned check, but must prove that it could not charge back when it received the returned check and could have charged back if no negligence had occurred, and must first attempt to collect from its customer. (See *Marcoux* v. *Van Wyk,* 572 F.2d 651 (8th Cir. 1978); *Appliance Buyers Credit Corp.* v. *Prospect Nat'l Bank,* 708 F.2d 290 (7th Cir. 1983)). Generally, a paying or returning bank's liability would not be reduced because the depositary bank did not place a hold on its customer's deposit before it learned of nonpayment of the check.

4. This paragraph also states that it does not affect a paying bank's liability to its customer. Under UCC 4–402, for example, a paying bank is liable to its customer for wrongful dishonor, which is different from failure to exercise ordinary care and has a different measure of damages.

B. 229.38(b) Paying Bank's Failure To Make Timely Return

1. Section 229.31(b) imposes requirements on the paying bank for expeditious return of a check and leaves in place the UCC deadlines (as they may be modified by § 229.31(g)), which may allow return at a different time. This paragraph clarifies that the paying bank could be liable for failure to meet either standard, but not for failure to meet both. The regulation intends to preserve the paying bank's accountability for missing its midnight or other deadline under the UCC (*e.g.,* sections 4–215 and 4–302), provisions that are not incorporated in this regulation, but may be useful in establishing the time of final payment by the paying bank.

C. 229.38(c) Comparative Negligence

1. This paragraph establishes a ''pure'' comparative negligence standard for liability under subpart C of this regulation. This comparative negligence rule may have particular application where a paying bank or returning bank delays in returning a check because of difficulty in identifying the depositary bank, where the depositary bank has failed to exercise ordinary care in applying its indorsement.

D. 229.38(d) Responsibility for Certain Aspects of Checks

1. ANS X9.100–140 provides that an image of an original check must be reduced in size when placed on the first substitute check associated with that original check. (The image thereafter would be constant in size on any subsequent substitute check that might be created.) Because of this size reduction, the location of an indorsement, particularly a depositary bank indorsement, applied to an original paper check likely will change when the first reconverting bank creates a substitute check that contains that indorsement within the image of the original paper check. If the indorsement was applied to the original paper check in accordance with ANS X9.100–111's location requirements for indorsements applied to existing paper checks, and if the size reduction of the image causes the placement of the indorsement to no longer be consistent with ANS X9.100–111's requirements, then the reconverting bank bears the liability for any loss that results from the shift in the placement of the indorsement. Such a loss could result either because the original indorsement applied in accordance with ANS X9.100–111 is rendered illegible by a subsequent indorsement that a reconverting bank later applies to the substitute check in accordance with ANS X9.100–140, or because a subsequent bank receiving a substitute check cannot apply its indorsement to the substitute check legibly in accordance with ANS X9.100–111 as a result of the shift in the previous indorsement.

2. Responsibility under paragraph (d)(1) is treated as negligence for comparative negligence purposes, and the contribution to damages under paragraph (d)(1) is treated in the same way as the degree of negligence under paragraph (c) of this section.

* * * * *

XXV. Section 229.39 Insolvency of Bank

A. Introduction

1. These provisions cover situations where a bank becomes insolvent during collection or return of a check. Paragraphs (a), (b), and (d) of § 229.39 are derived from UCC 4–216. They are intended to apply to all banks. Like UCC 4–216, paragraphs (a), (b), and (d) of § 229.39 are intended to establish the point

in the collection process at which collection or return of a check should be either stopped or continued when a particular bank suspends payments. Section 229.39(a) sets forth the circumstances under which the receiver must stop collection or return and, instead, send the check back to the bank or customer that transferred the check. Section 229.39(b) sets forth the circumstances under which the collection or return of the check should continue. Paragraphs (a) and (b) of § 229.39 are not intended to confer upon banks preferential positions in the event of bank failures over general depositors or any other creditor of the failed bank. (See UCC 4–216, cmt. 1).

B. 229.39(a) Duty of Receiver To Return Unpaid Checks

1. This paragraph requires a receiver of a closed bank to return a check to the prior bank if the paying bank or the receiver did not pay for the check. This permits the prior bank, as holder, to pursue its claims against the closed bank or prior indorsers on the check.

C. 229.39(b) Claims Against Banks for Checks Not Returned by the Receiver

1. This section sets forth the claims available to banks in situations in which a receiver does not return a check under § 229.39(a). In those situations, the prior bank would not be a holder of the check and would be unable to pursue claims as a holder.

2. Paragraph (b)(1) of § 229.39 gives a bank a claim against a closed paying bank that finally pays a check without settling for it or a closed depositary bank that becomes obligated to pay a returned check without settling for it. If the bank with a claim under this paragraph recovers from a prior bank or other party to the check, the prior bank or other party to the check is subrogated to the claim.

3. Paragraph (b)(2) of § 229.39 gives a bank a claim against a closed collecting bank, paying bank, or returning bank that receives settlement for but does not make settlement for a check. (See commentary to § 229.35(b) for discussion of prior and subsequent banks). As in the case of § 229.39(b)(1), if the bank with a claim under this paragraph recovers from a prior bank or other party to the check, the prior bank or other party to the check is subrogated to the claim.

D. 229.39(c) Preferred Claim Against Presenting Bank for Breach of Warranty

1. This paragraph gives a paying bank a preferred claim against a closed presenting bank in the event that the presenting bank breaches an amount or encoding warranty as provided in § 229.34(c)(1) or (3) and does not reimburse the paying bank for adjustments for a settlement made by the paying bank in excess of the value of the checks presented. This preferred claim is intended to have the effect of a perfected security interest and is intended to put the paying bank in the position of a secured creditor for purposes of the receivership provisions of the Federal Deposit Insurance Act and similar provisions of state law.

E. 229.39(d) Finality of Settlement

1. This paragraph provides that insolvency does not interfere with the finality of a settlement, such as a settlement by a paying bank that becomes final by expiration of the midnight deadline.

XXVI. Section 229.40 Effect on Merger Transaction

A. When banks merge, there is normally a period of adjustment before their operations are consolidated. To allow for this adjustment period, the regulation provides that the merged banks may be treated as separate banks for a period of up to one year after the consummation of the transaction. The term merger transaction is defined in § 229.2(t). This rule affects the status of the combined entity in a number of areas in this subpart, such as the following:

1. The paying bank's responsibility for notice of nonpayment (§ 229.31(c)).

2. Where the depositary bank must accept returned checks (§ 229.33(b) and (c)).

3. Where the depositary bank must accept notice of nonpayment (§ 229.33(b) and (c)).

4. Where a paying bank must accept presentment of paper checks (§ 229.36(b)).

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XXIX. Section 229.43 Checks Payable in Guam, American Samoa, and the Northern Mariana Islands

A. 229.43(a) Definitions

1. For purposes of subparts B and C of this part, bank offices in Guam, American Samoa, and the Northern Mariana Islands (which Regulation CC defines as Pacific island banks) do not meet the definition of bank in § 229.2(e) because they are not located in the United States. Some checks drawn on Pacific island banks (defined as Pacific island checks) bear U.S. routing numbers and are collected and returned by banks in the same manner as checks payable in the U.S.

B. 229.43(b) Rules Applicable to Pacific Island Checks

1. When a bank handles a Pacific island check as if it were a check as defined in § 229.2(k), or an electronic image and electronic information derived from a demand draft as defined in § 229.43(a)(2), the bank is subject to certain provisions of subpart C of this part, as provided in this section. Because a Pacific island bank is not a bank as defined in § 229.2(e) for purposes of subpart C, it is not a paying bank as defined in § 229.2(z) for purposes of subpart C (unless otherwise noted in this section). Pacific island banks are not subject to the provisions of subparts B and C, but may be subject to the provisions of subpart D of this part to the extent they create substitute checks. (See § 229.2(ff) defining ''State'').

2. A bank may agree to handle a Pacific island check as a returned check under § 229.32 and may convert the returned Pacific island check to a qualified returned check. The returning bank may receive the Pacific island check directly from a Pacific island bank or from another returning bank. As a Pacific island bank is not a paying bank for purposes of subpart C of this part, § 229.32(e) does not apply to a returning bank settling with the Pacific island bank.

3. A depositary bank that handles a Pacific island check is not subject to the provisions of subpart B of Regulation CC, including the availability, notice, and interest accrual requirements, with respect to that check. If, however, a bank accepts a Pacific island check for deposit (or otherwise accepts the check as transferee) and collects the Pacific island check in the same manner as other checks, the bank generally is subject to the provisions of § 229.33, except for § 229.33(c) with respect to its application to paper notices of nonpayment, § 229.33(d) (acceptance of oral notices of nonpayment), and § 229.33(h) (notification to customer of returned check). If the depositary bank receives the returned Pacific island check directly from the Pacific island bank, the provisions of § 229.33(e) (regarding time and manner of settlement for returned checks) do not apply, because the Pacific island bank is not a paying bank for purposes of subpart C of this part. In the event the Pacific island check is returned by a returning bank, however, the provisions of § 229.33(e) apply. The depositary bank is not subject to the provisions in § 229.33(c) with respect to paper notices of nonpayment for Pacific island checks, but is subject to § 229.33(c) with respect to paper returned checks that are Pacific island checks.

4. Banks that handle Pacific island checks in the same manner as other checks are subject to the indorsement provisions of § 229.35. Section 229.35(c) eliminates the need for the restrictive indorsement ''pay any bank.'' For purposes of § 229.35(c), the Pacific island bank is deemed to be a bank.

5. Pacific island checks will often be intermingled with other checks in a single cash letter. Therefore, a bank that handles Pacific island checks in the same manner as other checks is subject to the transfer warranty provision in § 229.34(c)(2) regarding accurate cash letter totals and the encoding warranty in § 229.34(c)(3). A bank that acts as a returning bank for a Pacific island check is not subject to the returned check warranties in § 229.34(d). Similarly, because the Pacific island bank is not a ''bank'' or a ''paying bank'' for purposes of subpart C of this part, the notice of nonpayment warranties in § 229.34(e), and the presentment warranties in § 229.34(c)(1) and (c)(4) do not apply. For the same reason, the provisions of § 229.36 governing paying bank responsibilities such as place of receipt and same-day settlement do not apply to checks presented to a Pacific island bank, and the liability provisions applicable to paying banks in § 229.38 do not apply to Pacific island banks. Section 229.36(c), regarding finality of settlement between banks during forward collection, applies to banks that handle Pacific island checks in the same manner as other checks, as do the liability provisions of § 229.38, to the extent the banks are subject to the requirements of Regulation CC as provided in this section, and §§ 229.37 and 229.39 through 229.42.

XXX. Section 229.51 General Provisions Governing Substitute Checks

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B. 229.51(b) Reconverting Bank Duties

1. In accordance with ANS X9.100–140, a reconverting bank must indorse (or, if it is a paying bank with respect to the check or a bank that rejected a check submitted for deposit, identify itself on) the back of a substitute check in a manner that preserves all indorsements applied, whether physically or electronically, by persons that previously handled the check in any form for forward collection or return. Indorsements applied physically to the original check before an image of the check was captured would be preserved through the image of the back of the original check that a substitute check must contain. If a bank sprays an indorsement onto a paper check *after* it captures an image of the check, it should ensure that it applies an indorsement to the item electronically, if it transfers the check as an electronic check or electronic returned check. (See paragraph 4 of commentary to section 229.35(a)). A reconverting bank satisfies its obligation to preserve all previously applied indorsements by physically applying (overlaying) electronic indorsements onto a substitute check that the reconverting bank creates. A reconverting bank is not responsible for obtaining indorsements that persons that previously handled the check in any form should have applied but did not apply.

2. A reconverting bank must identify itself and the truncating bank by applying its routing number and the routing number of the truncating bank to the front of a substitute check in accordance with ANS X9.100–140.

3. If the reconverting bank is the paying bank or a bank that rejected a check submitted for deposit, it also must identify itself by applying its routing number to the back of the check. A reconverting bank also must preserve on the back of the substitute check, in accordance with ANS X9.100–140, the identifications of any previous reconverting banks. The reconverting-bank and truncating-bank routing numbers on the front of a substitute check and, if the reconverting bank is the paying bank or a bank that rejected a check submitted for deposit, the reconverting bank's routing number on the back of a substitute check are for identification only and are not indorsements or acceptances.

Example. A bank's customer, which is a nonbank business, receives checks for payment and by agreement deposits substitute checks instead of the original checks with its depositary bank. The depositary bank is the reconverting bank with respect to the substitute checks and the truncating bank with respect to the original checks. In accordance with ANS X9.100–140, the bank must therefore be identified on the front of the substitute checks as a reconverting bank and as the truncating bank, and on the back of the substitute checks as the depositary bank and a reconverting bank.

4. The location of an indorsement applied to a paper check in accordance with ANS X9.100–111 may shift if that check is truncated and later reconverted to a substitute check. If an indorsement applied to an original check in accordance with ANS X9.100–111 is overwritten by a subsequent indorsement applied to a substitute check in accordance with industry standards, then one or both of those indorsements could be rendered illegible. As explained in § 229.38(c) and the commentary thereto, a reconverting bank is liable for losses associated with indorsements that are rendered illegible as a result of check substitution.

* * * * *

XXXI. Section 229.52 Substitute Check Warranties

A. 229.52(a) Warranty Content and Provision

1. The responsibility for providing the substitute-check warranties begins with the reconverting bank. In the case of a substitute check created by a bank, the reconverting bank starts the flow of warranties when it transfers, presents, or returns a substitute check for which it receives consideration or when it rejects a check submitted for deposit and returns to its customer a substitute check. A bank that receives a substitute check created by a nonbank starts the flow of warranties when it transfers, presents, or returns for consideration either the substitute check it received or an electronic or paper representation of that substitute check.

2. To ensure that warranty protections flow all the way through to the ultimate recipient of a substitute check or paper or electronic representation thereof, any subsequent bank that transfers, presents, or returns for consideration either the substitute check or a paper or electronic representation of the substitute check is responsible to subsequent transferees for the warranties. Any warranty recipient could bring a claim for a breach of a substitute-check warranty if it received either the actual substitute check or a paper or electronic representation of a substitute check.

3. The substitute-check warranties and indemnity are not given under sections 229.52 and 229.53 by a bank that truncates the original check and by agreement transfers an electronic check to a subsequent bank for consideration. However, the warranties in § 229.34(a) would apply to the transfer of an electronic check, and those warranties may be varied by agreement between the parties. A bank that is a truncating bank under § 229.2(eee)(2) because it accepts a deposit of a check electronically might be subject to a claim by another depositary bank that accepts the original check for deposit. (See § 229.34(f) and commentary thereto).

Example. A bank that receives an electronic check and uses it to create substitute checks is the reconverting bank and, when it transfers, presents, or returns that substitute check, becomes the first warrantor with respect to the substitute check warranties. That bank, however, may have similar warranty claims with respect to the electronic check under § 229.34(a) against the bank that transferred the electronic check.

4. A bank need not affirmatively make the warranties because they attach automatically when a bank transfers, presents, or returns the substitute check (or a representation thereof) for which it receives consideration. Because a substitute check transferred, presented, or returned for consideration is warranted to be the legal equivalent of the original check and thereby subject to existing laws as if it were the original check, all UCC and other Regulation CC warranties that apply to the original check also apply to the substitute check.

5. The legal-equivalence warranty by definition must be linked to a particular substitute check. When an original check is truncated, the check may move from electronic form to substitute-check form and then back again, such that there would be multiple substitute checks associated with one original check. When a check changes form multiple times in the collection or return process, the first reconverting bank and subsequent banks that transfer, present, or return the first substitute check (or a paper or electronic representation of the first substitute check) warrant the legal equivalence of only the first substitute check. If a bank receives an electronic representation of a substitute check and uses that representation to create a second substitute check, the second reconverting bank and subsequent transferees of the second substitute check (or a representation thereof) warrant the legal equivalence of both the first and second substitute checks. A reconverting bank would not be liable for a warranty breach under section 229.52 if the legal-equivalence defect is the fault of a subsequent bank that handled the substitute check, either as a substitute check or in other paper or electronic form.

6. The warranty in § 229.52(a)(1)(ii), which addresses multiple payment requests for the same check, is not linked to a particular substitute check but rather is given by each bank handling the substitute check, an electronic representation of a substitute check, or a subsequent substitute check created from an electronic representation of a substitute check. All banks that transfer, present, or return a substitute check (or a paper or electronic representation thereof) therefore provide the warranty regardless of whether the ultimate demand for double payment is based on the original check, the substitute check, or some other electronic or paper representation of the substitute or original check, and regardless of the order in which the duplicative payment requests occur. This warranty is given by the banks that transfer, present, or return a substitute check even if the demand for duplicative payment results from a fraudulent substitute check about which the warranting bank had no knowledge. (See also § 229.34(a)(1)(ii)).

Example. A nonbank depositor truncates a check and in lieu of the check sends an electronic check to both Bank A and Bank B. Bank A and Bank B each use the check information that it received electronically to create a substitute check, which it presents to Bank C for payment. Bank A and Bank B are both reconverting banks and each made the substitute-check warranties when it presented a substitute check to and received payment from Bank C. Bank C could pursue a warranty claim for the loss it suffered as a result of the duplicative payment against either Bank A or Bank B.

7. A bank that rejects a check submitted for deposit and, instead of the original check,

provides its customer with a substitute check makes the warranties in § 229.52(a)(1). As noted in the commentary to § 229.2(ccc), the Check 21 Act contemplates that nonbank persons that receive substitute checks (or representations thereof) from a bank will receive warranties and indemnities with respect to the checks. A reconverting bank that provides a substitute check to its depositor after it has rejected the check submitted for deposit may not have received consideration for the substitute check. In order to prevent banks from being able to transfer a check the bank truncated and then reconverted without providing substitute check warranties, the regulation provides that a bank that rejects a check submitted for deposit but provides its customer with a substitute check (or a paper or electronic representation of a substitute check) makes the warranties set forth in § 229.52(a)(1) regardless of whether the bank received consideration.

Example. A bank's customer submits a check for deposit at an ATM that captures an image of the check and sends the image electronically to the bank. After reviewing the item, the bank rejects the item submitted for deposit. Instead of providing the original check to its customer, the bank provides a substitute check to its customer. This bank is the reconverting bank with respect to the substitute check and makes the warranties described in § 229.52(a)(1) regardless of whether the bank previously extended credit to its customer. (See commentary to § 229.2(ccc)).

B. 229.52(b) Warranty Recipients

1. A reconverting bank makes the warranties to the person to which it transfers, presents, or returns the substitute check for consideration and to any subsequent recipient that receives either the substitute check or a paper or electronic representation derived from the substitute check. These subsequent recipients could include a subsequent collecting or returning bank, the depositary bank, the drawer, the drawee, the payee, the depositor, and any indorser. The paying bank would be included as a warranty recipient, for example because it would be the drawee of a check or a transferee of a check that is payable through it.

2. The warranties flow with the substitute check to persons that receive a substitute check or a paper or electronic representation of a substitute check. The warranties do not flow to a person that receives only the original check or a representation of an original check that was not derived from a substitute check. However, a person that initially handled only the original check could become a warranty recipient if that person later receives a returned substitute check or a paper or electronic representation of a substitute check that was derived from that original check. (See § 229.34(f) regarding claims by a depositary bank that accepts deposit of an original check).

3. A reconverting bank also makes the warranties to a person to whom the bank transfers a substitute check that the bank has rejected for deposit regardless of whether the bank received consideration.

XXXII. Section 229.53 Substitute Check Indemnity

A. 229.53(a) Scope of Indemnity

1. Each bank that for consideration transfers, presents, or returns a substitute check or a paper or electronic representation of a substitute check is responsible for providing the substitute-check indemnity.

2. The indemnity covers losses due to any subsequent recipient's receipt of the substitute check instead of the original check. The indemnity therefore covers the loss caused by receipt of the substitute check as well as the loss that a bank incurs because it pays an indemnity to another person. A bank that pays an indemnity would in turn have an indemnity claim regardless of whether it received the substitute check or a paper or electronic representation of the substitute check. The indemnity would not apply to a person that handled only the original check or a paper or electronic image of the original check that was not derived from a substitute check.

3. A reconverting bank also provides the substitute check indemnity to a person to whom the bank transfers a substitute check (or a paper or electronic representation of a substitute check) derived from a check that the bank has rejected for deposit regardless of whether the bank providing the indemnity has received consideration.

* * * * *

B. 229.53(b) Indemnity Amount

1. If a recipient of a substitute check is making an indemnity claim because a bank has breached one of the substitute-check warranties, the recipient can recover any losses proximately caused by that warranty breach.

Examples

a. A drawer discovers that its account has been charged for two different substitute checks that were provided to the drawer and that were associated with the same original check. As a result of this duplicative charge, the paying bank dishonored several subsequently presented checks that it otherwise would have paid and charged the drawer returned-check fees. The payees of the returned checks also charged the drawer returned-check fees. The drawer would have a warranty claim against any of the warranting banks, including its bank, for breach of the warranty described in § 229.52(a)(1)(ii). The drawer also could assert an indemnity claim. Because there is only one original check for any payment transaction, if the collecting bank and presenting bank had collected the original check instead of using a substitute check the bank would have been asked to make only one payment. The drawer could assert its warranty and indemnity claims against the paying bank, because that is the bank with which the drawer has a customer relationship and the drawer has received an indemnity from that bank. The drawer could recover from the indemnifying bank the amount of the erroneous charge, as well as the amount of the returned-check fees charged by both the paying bank and the payees of the returned checks. If the drawer's account were an interest-bearing account, the drawer also could recover any interest lost on the erroneously debited amount and the erroneous returned-check fees. The drawer also could recover its expenditures for representation in connection with the claim. Finally, the drawer could recover any other losses that were proximately caused by the warranty breach.

b. In the example above, the paying bank that received the duplicate substitute checks also would have a warranty claim against the previous transferor(s) of those substitute checks and could seek an indemnity from that bank (or either of those banks). The indemnifying bank would be responsible for compensating the paying bank for all the losses proximately caused by the warranty breach, including representation expenses and other costs incurred by the paying bank in settling the drawer's claim.

* * * * *

3. The amount of an indemnity would be reduced in proportion to the amount of any loss attributable to the indemnified person's negligence or bad faith. This comparative-negligence standard is intended to allocate liability in the same manner as the comparative-negligence provision of section 229.38(c).

* * * * *

XXXIII. 229.54 Expedited Recredit for Consumers

A. * * *

2. A consumer must in good faith assert that the bank improperly charged the consumer's account for the substitute check or that the consumer has a warranty claim for the substitute check (or both). The warranty in question could be a substitute-check warranty described in section 229.52 or any other warranty that a bank provides with respect to a check under other law. A consumer could, for example, have a warranty claim under section 229.34(a) or (d), which contain returned-check warranties that are made to the owner of the check.

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 26, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–11379 Filed 6–14–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL REGISTER

Vol. 82 Thursday,
No. 114 June 15, 2017

Part III

The President

Notice of June 13, 2017—Continuation of the National Emergency With Respect to the Actions and Policies of Certain Members of the Government of Belarus and Other Persons to Undermine Democratic Processes or Institutions of Belarus
Presidential Determination No. 2017–08 of June 13, 2017—Presidential Determination Pursuant to Section 4533(a)(5) of the Defense Production Act of 1950
Presidential Determination No. 2017–09 of June 13, 2017—Presidential Determination Pursuant to Section 4533(a)(5) of the Defense Production Act of 1950

Federal Register
Vol. 82, No. 114
Thursday, June 15, 2017

Presidential Documents

Title 3—

The President

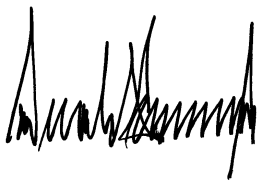
Notice of June 13, 2017

Continuation of the National Emergency With Respect to the Actions and Policies of Certain Members of the Government of Belarus and Other Persons to Undermine Democratic Processes or Institutions of Belarus

On June 16, 2006, by Executive Order 13405, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain members of the Government of Belarus and other persons to undermine democratic processes or institutions of Belarus, manifested in the fundamentally undemocratic March 2006 elections; to commit human rights abuses related to political repression, including detentions and disappearances; and to engage in public corruption, including by diverting or misusing Belarusian public assets or by misusing public authority.

The actions and policies of certain members of the Government of Belarus and other persons continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on June 16, 2006, and the measures adopted on that date to address that emergency, must continue in effect beyond June 16, 2017. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13405.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
June 13, 2017.

[FR Doc. 2017–12618
Filed 6–14–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Determination No. 2017–08 of June 13, 2017

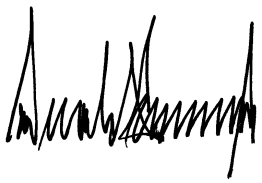
Presidential Determination Pursuant to Section 4533(a)(5) of the Defense Production Act of 1950

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States, including section 4533(a)(5) of the Defense Production Act of 1950 (the ''Act'') (50 U.S.C. 4533(a)(5)), I hereby determine, pursuant to section 4533(a)(5) of the Act, that critical technology items affecting aerospace structures and fibers, radiation-hardened microelectronics, radiation test and qualification facilities, and satellite components and assemblies are critical to national defense.

Without Presidential action under this Act, the United States space industrial base cannot reasonably be expected to adequately provide those critical technology items in a timely manner. Further, purchases, purchase commitments, or other action pursuant to section 4533 of the Act are the most cost effective, expedient, and practical alternative method for meeting the needs for those critical technology items.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 13, 2017

[FR Doc. 2017–12621
Filed 6–14–17; 11:15 am]
Billing code 5001–06–P

Presidential Documents

Presidential Determination No. 2017–09 of June 13, 2017

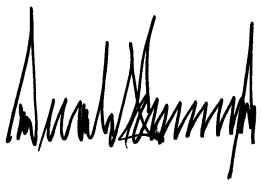
Presidential Determination Pursuant to Section 4533(a)(5) of the Defense Production Act of 1950

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States, including section 4533(a)(5) of the Defense Production Act of 1950 (the ''Act'') (50 U.S.C. 4533(a)(5)), I hereby determine, pursuant to section 4533(a)(5) of the Act, that critical technology item shortfalls affecting adenovirus vaccine production capability; high strength, inherently fire and ballistic resistant, co-polymer aramid fibers industrial capability; secure hybrid composite shipping container industrial capability; and three-dimensional ultra-high density microelectronics for information protection industrial capability are critical to national defense.

Without Presidential action under this Act, the United States defense industrial base cannot reasonably be expected to adequately provide those capabilities or critical technology items in a timely manner. Further, purchases, purchase commitments, or other action pursuant to section 4533 of the Act are the most cost effective, expedient, and practical alternative method for meeting the need for those capabilities or critical technology items.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 13, 2017

[FR Doc. 2017–12622
Filed 6–14–17; 11:15 am]
Billing code 5001–06–P

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Federal Register

Vol. 82, No. 114

Thursday, June 15, 2017

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Presidential Documents

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The United States Government Manual — **741–6000**

Other Services

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FEDERAL REGISTER PAGES AND DATE, JUNE

25203–25502 1
25503–25714 2
25715–25930 5
25931–26334 6
26335–26570 7
26571–26738 8
26739–26842 9
26843–26978 12
26979–27104 13
27105–27402 14
27403–27610 15

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9618 25921
9619 25923
9620 25925
9621 25927
9622 25929

Administrative Orders:
Notices:
Notice of June 13, 2017 27605
Presidential Determinations:
No. 2017–08 of June 13, 2017 27607
No. 2017–09 of June 13, 2017 27609

5 CFR

1201 25715
1800 26739

Proposed Rules:
Ch. XXI 27217

6 CFR

Proposed Rules:
5 27218

7 CFR

800 26843
4279 26335

Proposed Rules:
982 26859
986 27028

9 CFR

530 27403
531 27403
532 27403
533 27403
534 27403
537 27403
539 27403
540 27403
541 27403
544 27403
548 27403
550 27403
552 27403
555 27403
557 27403
559 27403
560 27403
561 27403

10 CFR

72 25931

Proposed Rules:
72 25973

12 CFR

229 27551
1263 25716

Proposed Rules:
Ch. I 27217
229 25539
Ch. V 27217
701 ..... 26378, 26605
703 26378
705 26378
708a 26378, 26605
708b 26605
709 26378
741 26378
745 26378
746 ..... 26378, 26391
747 26378
750 26378
Ch. XV 27217
Ch. XVII 27217

13 CFR

121 25503
134 25503

14 CFR

23 25509
25 ..... 27105, 27107, 27404
39 ..... 25723, 25936, 25940, 25943, 25946, 25954, 26571, 26573, 26576, 26579, 26580, 26843, 26979, 26982, 26985, 27406, 27408, 27411, 27414, 27416, 27419
71 ..... 25958, 25959, 26336, 26338, 26987

Proposed Rules:
39 ..... 25542, 25545, 25547, 25550, 25552, 25554, 25556, 25742, 25744, 25746, 25748, 25975, 25978, 25980, 25983, 25986, 26403, 26615, 26617, 26758, 26864, 26867, 26869, 26872, 26874, 27219, 27444
71 ..... 25559, 25561, 25563, 25988, 25989, 25991, 26406, 26408, 26409, 26619, 27448, 27449

15 CFR

740 27108
774 27108
922 26339

17 CFR

Proposed Rules:
Ch. IV 27217

18 CFR

401 26989
420 26989

Proposed Rules:
1318 26620

19 CFR

12.....26340, 26582

Proposed Rules:

Ch. I.....27217

21 CFR

814.....26348
1308.....26349

Proposed Rules:

1308.....25564

23 CFR

490.....25726

26 CFR

Proposed Rules:

Ch. I.....27217
301.....27334

27 CFR

Proposed Rules:

Ch. I.....27217

28 CFR

Proposed Rules:

16.....25751

29 CFR

4022.....27422
4044.....27422
4901.....26990

Proposed Rules:

405.....26877
406.....26877

30 CFR

250.....26741

31 CFR

Proposed Rules:

Sub. A.....27217
Ch. I.....27217
Ch. II.....27217
Ch. IV.....27217
Ch. V.....27217
Ch. VI.....27217
Ch. VII.....27217
Ch. VIII.....27217
Ch. IX.....27217
Ch. X.....27217

33 CFR

100 .....25511, 25960, 26992, 27110
110.....27112
117 .....25726, 25727, 26584, 26744, 26745, 26746, 27423
165 .....25515, 25517, 25519, 25521, 25728, 25962, 25964, 25965, 26584, 26586, 26746, 26749, 26846, 26848, 26992, 27011, 27013, 27014, 27015, 27116

Proposed Rules:

Ch. I.....26632
110.....25207
165.....26760

36 CFR

1270.....26588

37 CFR

201.....26850, 27424
202.....26850, 27424
350.....27016
360.....27016

38 CFR

60.....26592
14.....26751

40 CFR

52 .....25203, 25523, 25969, 26351, 26594, 26596, 26754, 26854, 27118, 27121, 27122, 27125, 27127, 27428
60.....25730
62.....25734, 25969
68.....27133
80.....26354
81.....25523
171.....25529
180 .....25532, 26599, 27021, 27144, 27149
232.....26603
258.....25532
441.....27154

Proposed Rules:

52 .....25208, 25211, 25213, 25992, 25996, 25999, 26007, 26634, 26638, 26762, 26883, 27031, 27221, 27451, 27456
62.....25753, 25969
158.....25567
258.....25568
174.....26639, 26641
180.....26641
423.....26017
721.....26644

42 CFR

Proposed Rules:

Ch. IV.....26885
409.....27222
483.....26649
488.....27222

43 CFR

3170.....27430

44 CFR

64.....25739

Proposed Rules:

Ch. I.....27460
1.....26411

45 CFR

1149.....27431
1158.....27431

Proposed Rules:

Subtitle A.....26885
1148.....26763

46 CFR

Proposed Rules:

Ch. I.....26632
Ch. III.....26632
515.....25221
520.....25221
525.....25221
530.....25221
531.....25221
532.....25221
535.....25221
540.....25221
565.....25221

47 CFR

0.....25660
1.....25660
2.....27178
15.....27178
25.....25205
36.....25535
61.....25660
63.....25660
69.....25660
80.....27178
90.....27178
96.....26857
97.....27178
101.....27178

Proposed Rules:

1.....26019
8.....25568
54.....26653
20.....25568
73.....25590, 26887

48 CFR

Proposed Rules:

Ch. 10.....27217

49 CFR

7.....25740
270.....26359
571.....26360
585.....26360

Proposed Rules:

383.....26888, 26894
384.....26894
387.....25753
Ch. IV.....26632

50 CFR

217.....26360, 27434
622.....25205, 26366
635.....26603
648.....27027

Proposed Rules:

17.....27033
Ch. II.....26419
Ch. III.....26419
Ch. IV.....26419
Ch. V.....26419
Ch. VI.....26419
648.....27223
660.....26902

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 12, 2017

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