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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 25

**[Docket No. FAA–2017–0544; Special Conditions No. 25–692–SC]**

## Special Conditions: LifePort, Inc.: Boeing Model 747–8 Airplane; Single- and Multiple-Occupant Side-Facing Seats

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Boeing Model 747–8 airplane. This airplane, as modified by LifePort Inc. (LifePort), will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. These design features are single- and multiple-occupant side-facing seats (*i.e.,* seats positioned in the airplane with the occupant facing 90 degrees to the direction of airplane travel). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. 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 LifePort on August 1, 2017. Send your comments by September 15, 2017.

**ADDRESSES:** Send comments identified by docket number FAA–2017–0544 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:** Alan Sinclair, FAA, Airframe and Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2195; 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 airplane.

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 good cause that prior public notice and comment are unnecessary and impracticable, and finds that good cause exists 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 September 28, 2016, LifePort applied for a supplemental type certificate for single- and multiple-occupant side-facing seats in the Boeing Model 747–8 airplane. The Boeing Model 747–8 airplane is a wide-body, four-engine, extended-range jet with a stretched upper deck. This airplane is configured as a private executive jet, not for hire, not for common carriage. The maximum takeoff weight is 987,331 pounds.

### Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, LifePort must show that the Boeing Model 747–8 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A20WE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747–8 airplane, 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 model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747–8 airplane 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 Boeing Model 747–8 airplane, as modified by LifePort, will incorporate the following novel or unusual design features:

Single- and multiple-occupant side-facing seats positioned in the airplane with the occupant facing 90 degrees to the direction of airplane travel.

**Discussion**

Side-facing seats are considered a novel design for transport-category airplanes that include §§ 25.562 and 25.785 at Amendment 25–64 in their certification basis, and were not considered when those airworthiness standards were issued. The FAA has determined that the existing regulations do not provide adequate or appropriate safety standards for occupants of side-facing seats. To provide a level of safety that is equivalent to that afforded to occupants of forward- and aft-facing seats, additional airworthiness standards in the form of special conditions are necessary.

On June 16, 1988, 14 CFR part 25 was amended by Amendment 25–64 to revise the emergency-landing conditions that must be considered in the design of transport-category airplanes. Amendment 25–64 revised the static-load conditions in § 25.561, and added a new § 25.562 that required dynamic testing for all seats approved for occupancy during takeoff and landing. The intent of Amendment 25–64 was to provide an improved level of safety for occupants on transport-category airplanes. However, because most seating on transport-category airplanes is forward-facing, the pass/fail criteria developed in Amendment 25–64 focused primarily on these seats. For some time, the FAA granted exemptions for the multiple-place side-facing-seat installations because the existing test methods and acceptance criteria did not produce a level of safety equivalent to the level of safety provided for forward- and aft-facing seats. These exemptions were subject to many conditions that reflected the injury-evaluation criteria and mitigation strategies available at the time of the exemption issuance.

The FAA also issued special conditions to address single-place side-facing seats based on the data available at the time the FAA issued those special conditions. Continuing concerns regarding the safety of side-facing seats prompted the FAA to conduct research to develop an acceptable method of compliance with §§ 25.562 and 25.785(b) for side-facing seat installations. That research has identified injury considerations and evaluation criteria in addition to those previously used to approve side-facing seats (see published report DOT/FAA/AR–09/41, July 2011).

One particular concern that was identified during the FAA's research program, but not addressed in the previous special conditions, was the significant leg injuries that can occur to occupants of both single- and multiple-place side-facing seats. Because this type of injury does not occur on forward- and aft-facing seats, the FAA determined that, to achieve the level of safety envisioned in Amendment 25–64, additional requirements would be needed as compared to previously issued special conditions. Nonetheless, the research has now allowed the development of a single set of special conditions that is applicable to all fully side-facing seats.

On November 5, 2012, the FAA released policy statement PS–ANM–25–03–R1, ''Technical Criteria for Approving Side-Facing Seats,'' to update existing FAA certification policy on §§ 25.562 and 25.785(a) at Amendment 25–64 for single- and multiple-place side-facing seats. This policy addresses both the technical criteria for approving side-facing seats and the implementation of those criteria. The FAA methodology detailed in PS–ANM–25–03–R1 has been used in establishing a new set of proposed special conditions. Some of the conditions issued for previous exemptions are still relevant and are included in these new special conditions. However, others have been replaced by different criteria that reflect current research findings.

In Policy Statement PS–ANM–25–03–R1, conditions 1 and 2 are applicable to all side-facing seat installations, whereas conditions 3 through 16 represent additional requirements applicable to side-facing seats equipped with an airbag system in the shoulder belt. Because the applicant's side-facing seats do not have airbag systems, only conditions 1 and 2 are applicable to, and included in, these special conditions.

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 Boeing Model 747–8 airplane as modified by LifePort. Should LifePort apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate no. A20WE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

**Conclusion**

This action affects only certain novel or unusual design features on one model of airplane. 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 airplane.

**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 Boeing Model 747–8 airplanes modified by LifePort, Inc.

1. Additional requirements applicable to tests or rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. The longitudinal test(s) conducted in accordance with § 25.562(b)(2), to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8) and these special conditions, must have an ES–2re anthropomorphic test dummy (ATD) (49 CFR part 572, subpart U) or equivalent, or a Hybrid II ATD (49 CFR part 572, subpart B as specified in § 25.562) or equivalent, occupying each seat position and including all items (*e.g.,* armrest, interior wall, or furnishing) contactable by the occupant if those items are necessary to restrain the occupant. If included, the floor representation and contactable items must be located such that their relative position, with respect to the center of the nearest seat place, is the same at the start of the test as before floor misalignment is applied. For example, if

floor misalignment rotates the centerline of the seat place nearest the contactable item 8 degrees clockwise about the airplane x-axis, then the item and floor representations must be rotated by 8 degrees clockwise also, to maintain the same relative position to the seat place, as shown in Figure 1. Each ATD's relative position to the seat after application of floor misalignment must be the same as before misalignment is applied. To ensure proper occupant seat loading, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis and shoulder of the ATD until rebound begins. No injury-criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

b. The longitudinal test(s) conducted in accordance with § 25.562(b)(2), to show compliance with the injury assessments required by § 25.562(c) and these special conditions, may be conducted separately from the test(s) to show structural integrity. In this case, structural-assessment tests must be conducted as specified in paragraph 1a, above, and the injury-assessment test must be conducted without yaw or floor misalignment. Injury assessments may be accomplished by testing with ES–2re ATD (49 CFR part 572, subpart U) or equivalent at all places. Alternatively, these assessments may be accomplished by multiple tests that use an ES–2re ATD at the seat place being evaluated, and a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent used in all seat places forward of the one being assessed, to evaluate occupant interaction. In this case, seat places aft of the one being assessed may be unoccupied. If a seat installation includes adjacent items that are contactable by the occupant, the injury potential of that contact must be assessed. To make this assessment, tests may be conducted that include the actual item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed by a combination of tests with items having the same geometry as the actual item, but having stiffness characteristics that would create the worst case for injury (injuries due to both contact with the item and lack of support from the item).

c. If a seat is installed aft of structure (*e.g.,* an interior wall or furnishing) that does not have a homogeneous surface contactable by the occupant, additional analysis and/or test(s) may be required to demonstrate that the injury criteria are met for the area that an occupant could contact. For example, different yaw angles could result in different injury considerations and may require additional analysis or separate test(s) to evaluate.

d. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), the surface of items contactable by the occupant must be homogenous 7.3 in. (185 mm) above and 7.9 in. (200 mm) below the point (center of area) that is contacted by the 50th percentile male size ATD's head during the longitudinal test(s) conducted in accordance with paragraphs a, b, and c, above. Otherwise, additional head-injury criteria (HIC) assessment tests may be necessary. Any surface (inflatable or otherwise) that provides support for the occupant of any seat place must provide that support in a consistent manner regardless of occupant stature. For example, if an inflatable shoulder belt is used to mitigate injury risk, then it must be demonstrated by inspection to bear against the range of occupants in a similar manner before and after inflation. Likewise, the means of limiting lower-leg flail must be demonstrated by inspection to provide protection for the range of occupants in a similar manner.

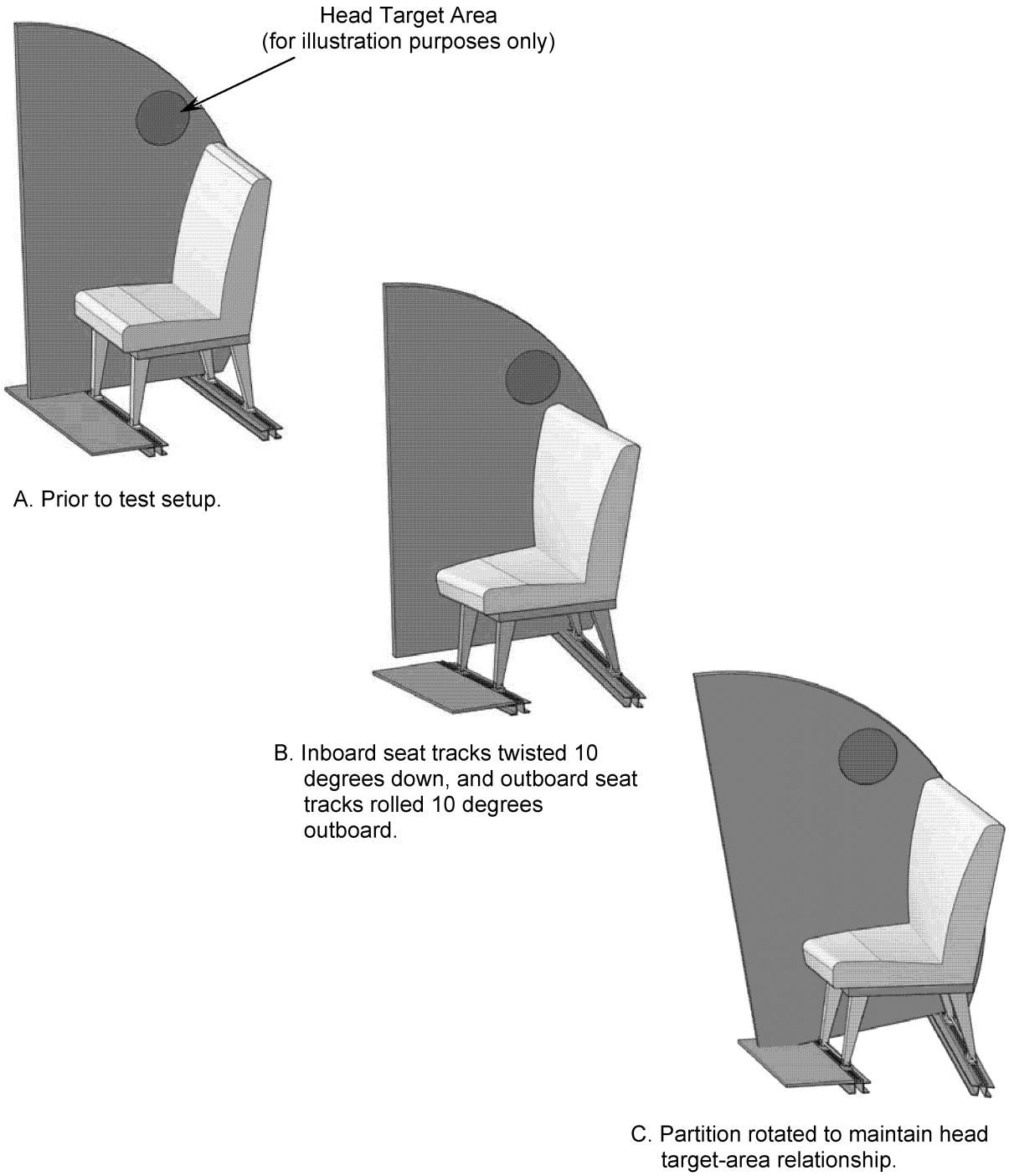
Head Target Area
(for illustration purposes only)
A. Prior to test setup.
B. Inboard seat tracks twisted 10 degrees down, and outboard seat tracks rolled 10 degrees outboard.
C. Partition rotated to maintain head target-area relationship.

**Figure 1**

e. For longitudinal test(s) conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

(1) *ATD positioning:* Lower the ATD vertically into the seat while simultaneously (see Figure 2):

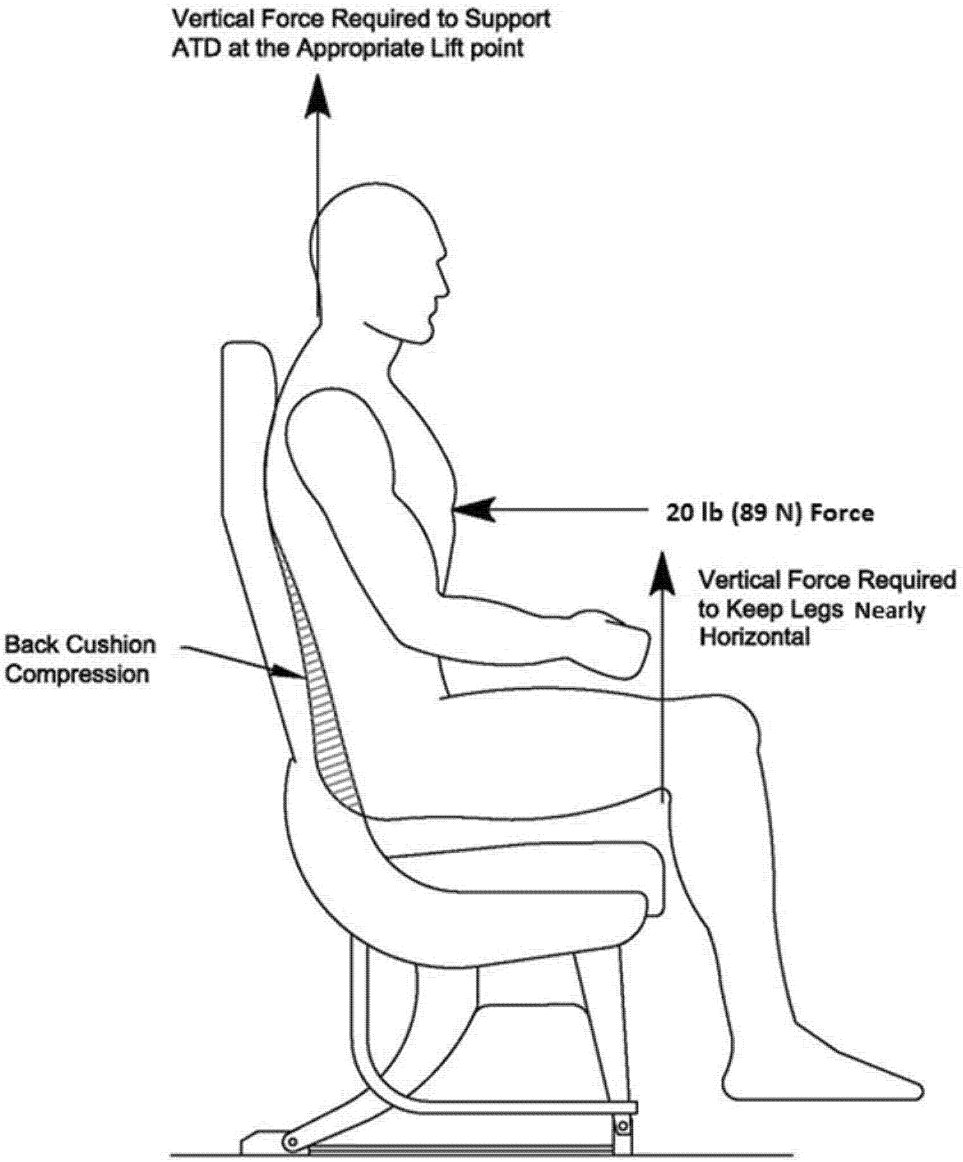


**Figure 2**

(a) Aligning the midsagittal plane (a vertical plane through the midline of the body; dividing the body into right and left halves) with approximately the middle of the seat place.

(b) Applying a horizontal x-axis direction (in the ATD coordinate system) force of about 20 lb (89 N) to the torso at approximately the intersection of the midsagittal plane and the bottom rib of the ES–2re or lower sternum of the Hybrid II at the midsagittal plane, to compress the seat back cushion.

(c) Keeping the upper legs nearly horizontal by supporting them just behind the knees.

(d) After all lifting devices have been removed from the ATD:

(i) Rock it slightly to settle it into the seat.

(ii) Separate the knees by about 4 in. (100 mm).

(iii) Set the ES–2re ATD's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

(iv) Position the ES–2re ATD's arms at the joint's mechanical detent that puts them at approximately a 40-degree angle with respect to the torso. Position the Hybrid II ATD hands on top of its upper legs.

(v) Position the feet such that the centerlines of the lower legs are approximately parallel to a lateral vertical plane (in the airplane coordinate system).

(2) *ATD clothing:* Clothe each ATD in form-fitting, mid-calf-length (minimum) pants and shoes (size 11E) weighing about 2.5 lb (1.1 Kg) total. The color of

the clothing should be in contrast to the color of the restraint system. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition if desired.

(3) *ES–2re ATD lateral instrumentation:* The rib-module linear slides are directional, *i.e.,* deflection occurs in either a positive or negative ATD y-axis direction. The modules must be installed such that the moving end of the rib module is toward the front of the airplane. The three abdominal-force sensors must be installed such that they are on the side of the ATD toward the front of the airplane.

f. The combined horizontal/vertical test, required by § 25.562(b)(1) and these special conditions, must be conducted with a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562), or equivalent, occupying each seat position.

g. Restraint systems:

(1) If inflatable restraint systems are used, they must be active during all dynamic tests conducted to show compliance with § 25.562.

(2) The design and installation of seatbelt buckles must prevent unbuckling due to applied inertial forces, or impact of the hands or arms of the occupant during an emergency landing.

2. Additional performance measures applicable to tests and rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. *Body-to-body contact:* Contact between the head, pelvis, torso, or shoulder area of one ATD with the adjacent-seated ATD's head, pelvis, torso, or shoulder area is not allowed. Contact during rebound is allowed.

b. *Thoracic:* The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 in. (44 mm). Data must be processed as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214.

c. *Abdominal:* The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lb (2,500 N). Data must be processed as defined in FMVSS 571.214.

d. *Pelvic:* The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lb (6,000 N). Data must be processed as defined in FMVSS 571.214.

e. *Leg:* Axial rotation of the upper-leg (femur) must be limited to 35 degrees in either direction from the nominal seated position.

f. *Neck:* As measured by the ES–2re ATD and filtered at Channel Frequency Class 600 as defined in SAE J211, ''Instrumentation for Impact Test—Part 1—Electronic Instrumentation.''

(1) The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lb (1,800 N).

(2) The upper-neck compression force at the O.C. location must be less than 405 lb (1,800 N).

(3) The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in-lb (115 Nm).

(4) The upper-neck resultant shear force at the O.C. location must be less than 186 lb (825 N).

g. *Occupant (ES–2re ATD) retention:* The pelvic restraint must remain on the ES–2re ATD's pelvis during the impact and rebound phases of the test. The upper-torso restraint straps (if present) must remain on the ATD's shoulder during the impact.

h. Occupant (ES–2re ATD) support:

(1) *Pelvis excursion:* The load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of its seat's bottom seat-cushion supporting structure.

(2) *Upper-torso support:* The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright position during the impact.

Issued in Renton, Washington, on July 13, 2017.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–16099 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2017–0330; Directorate Identifier 2017–NM–016–AD; Amendment 39–18972; AD 2017–15–12]**

**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 737–300, –400, and –500 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the lower skin at the skin lap splice lower fastener row is subject to widespread fatigue damage (WFD). This AD requires repetitive inspections for cracking in the skin lap splice at the lower fastener row, and repair if necessary. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 5, 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. Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017, is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0330.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0330; 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 final rule, 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:** James Guo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *james.guo@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 737–300, –400, and –500 series airplanes. The NPRM published in the

**Federal Register** on May 1, 2017 (82 FR 20288). The NPRM was prompted by an evaluation by the DAH indicating that the lower skin at the skin lap splice lower fastener row is subject to WFD. The NPRM proposed to require repetitive inspections for cracking in the skin lap splice at the lower fastener row, and repair if necessary.

**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.

**Supportive Comment**

Boeing stated that it concurred with the NPRM.

**Effect of Winglets on Accomplishment of the Proposed Actions**

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

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

**Conclusion**

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

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

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017. The service information describes procedures for eddy current inspections for cracking at the skin lap splice in the lower fastener row, and repair if necessary. 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 126 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 ..... | 84 work-hours × $85 per hour = $7,140 per inspection cycle. | $0 | $7,140 per inspection cycle ..... | $899,640 per inspection cycle. |

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

**Authority for This Rulemaking**

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

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

**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):

**2017–15–12 The Boeing Company:** Amendment 39–18972; Docket No. FAA–2017–0330; Directorate Identifier 2017–NM–016–AD.

**(a) Effective Date**

This AD is effective September 5, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

(1) This AD applies to The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category,

as identified in Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/EBD1CEC7B301293E86257CB30045557A?OpenDocument&Highlight=st01219se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by an evaluation by the design approval holder indicating that the lower skin at the skin lap splice lower fastener row is subject to widespread fatigue damage. We are issuing this AD to detect and correct cracks in the lower skin, which, if not detected, could link up, resulting in reduced structural integrity of the airplane and consequent uncontrolled decompression of the airplane.

**(f) Compliance**

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

**(g) Repetitive Inspections**

Except as provided by paragraph (i) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017: Do external eddy current inspections at stringer S–14 on the left and right sides of the airplane (S–14L and S–14R) for any crack in the skin lap splice at the lower fastener row, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017. Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017.

**(h) Repair**

If any crack is found during any inspection required by paragraph (g) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD. Although Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017, specifies to contact Boeing for appropriate action and specifies that action as ''RC'' (Required for Compliance), this AD requires repair as specified in this paragraph.

**(i) Exceptions to Service Information Specifications**

(1) Where Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) The Condition column of Table 1 and Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017, refers to total flight cycles ''at the original issue date of this service bulletin.'' This AD, however, applies to the airplanes with the specified total flight cycles as of the effective date of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Los Angeles 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 (k) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

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

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

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

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

**(k) Related Information**

For more information about this AD, contact James Guo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *james.guo@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Boeing Alert Service Bulletin 737–53A1365, dated January 23, 2017.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Transport 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 July 14, 2017.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15477 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2017–0640; Directorate Identifier 2017–CE–020–AD; Amendment 39–18969; AD 2017–15–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH Model DA 42 airplanes. This AD requires installing engine exhaust pipe clamps with spring washers, repetitively inspecting the engine exhaust pipe clamps for cracks, and replacing the clamps if found cracked. This AD was prompted by cracks in the affected engine exhaust pipes, which could cause failure of the propeller regulating valve because of hot exhaust gases coming from the fractured pipes. We are issuing this AD to correct the unsafe condition on these products.

**DATES:** This AD is effective August 1, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 1, 2017.

We must receive comments on this AD by September 15, 2017.

**ADDRESSES:** You may send comments by any of the following methods:

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

For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2017–0640.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0640; 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 (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

AD 2017–01–12, Amendment 39–18779 (82 FR 5359, January 18, 2017) (''AD 2017–01–12'') requires either replacing the engine exhaust pipes with new design pipes or installing clamps on the old design pipes on Diamond Model DA 42 airplanes. AD 2017–01–12 is based on European Aviation Safety Agency (EASA) AD No. 2016–0156R1, dated November 23, 2016. EASA is the Technical Agent for the Member States of the European Community.

After issuance of AD 2017–01–12, we received reports of cracks on the new design engine exhaust pipes. To address this cracking issue, we issued AD 2017–11–08, Amendment 39–18907 (82 FR 24843, May 31, 2017) (''AD 2017–11–08''). AD 2017–11–08 requires repetitively inspecting the new design engine exhaust pipes installed on Diamond Model DA 42 airplanes and replacing any cracked pipes. AD 2017–11–08 is based on EASA AD No. 2017–0090, dated May 17, 2017.

Since issuance of AD 2017–11–08, we received reports of cracks found on the engine exhaust pipe clamps that were installed on the old design engine exhaust pipes as a requirement in AD 2017–01–12. The FAA and EASA are working concurrently on AD action for the United States and Europe. EASA recently issued AD No.: 2017–0120, dated July 13, 2017, to address actions similar to that of this FAA AD.

This condition, if not corrected, could result in hot exhaust gases coming from the fractured pipes and leading to an uncommanded engine in-flight shutdown or overheat damage, which could result in a forced landing, consequent damage, and occupant injury.

## Related Service Information Under 1 CFR Part 51

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletin MSB 42–120/2, dated June 7, 2017, and Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017. In combination, the service information describes procedures for installing engine exhaust pipe clamps with spring washers and inspecting the engine exhaust pipe clamps for cracks, with replacement if cracks are found. 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 of the final rule.

## FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

## AD Requirements

This AD requires accomplishing the actions specified in the service information described previously.

## FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because affected engine exhaust pipes could crack and cause hot gases to leak from fractured exhaust pipes and lead to an uncommanded engine in-flight shutdown. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2017–0640 and Directorate Identifier 2017–CE–020–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

## Costs of Compliance

We estimate that this AD affects 130 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 |
|---|---|---|---|---|
| Install engine exhaust pipe clamps with spring washers. | 4 work-hours × $85 per hour = $340 (for both clamps). | * $100 | $440 | $57,200 |
| Inspect engine exhaust pipe clamps ..... | 2 work-hours × $85 per hour = $170 ..... | N/A | 170 | 22,100 |

* (for both clamps)

We estimate the following costs to do any necessary replacements that will be required based on the results of the inspections. We have no way of determining the number of airplanes that may need these replacements:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replace cracked clamps ..... | 4 work-hours × $85 per hour = $340 (for both clamps) ..... | * $100 | $440 |

* (for both clamps)

## Paperwork Reduction Act

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

## Authority for This Rulemaking

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

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

## 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):

**2017–15–09 Diamond Aircraft Industries GmbH:** Amendment 39–18969; Docket No. FAA–2017–0640; Directorate Identifier 2017–CE–020–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective August 1, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Diamond Aircraft Industries (DAI) GmbH Model DA 42 airplanes, serial numbers 42.004 through 42.427 and 42.AC001 through 42.AC151, certificated in any category, that have:

(1) Either a Technify Motors GmbH TAE 125–02–99 or TAE 125–02–114 engine installed; and

(2) DAI part numbers (P/N) D60–7806–00–01 and P/N D60–7806–00–02 engine exhaust clamps installed.

**(d) Subject**

Air Transport Association of America (ATA) Code 78: Engine Exhaust.

**(e) Reason**

This AD was prompted by cracks in the affected engine exhaust pipes, which could cause failure of the propeller regulating valve because of hot exhaust gases coming from the fractured pipes. We are issuing this AD to prevent an uncommanded engine in-flight shutdown or overheat damage, which could result in a forced landing, consequent damage, and occupant injury.

**(f) Actions and Compliance**

Unless already done, do the actions in paragraphs (f)(1) through (6) of this AD.

(1) Before or upon accumulating 40 hours time-in-service (TIS) on the affected engine exhaust pipes or within the next 10 hours

TIS after August 1, 2017 (the effective date of this AD), whichever occurs later, do the actions in paragraphs (f)(1)(i) and (ii) of this AD.

(i) Inspect each engine exhaust clamp for cracks following III.3 Action 3—Inspection of exhaust clamp for cracks of the INSTRUCTIONS section of Diamond Aircraft Industries GmbH (DAI) Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, as specified in DAI Mandatory Service Bulletin MSB 42–120/2, dated June 7, 2017.

(ii) Reinstall any uncracked clamp or replace with a new clamp and incorporate spring washers following III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, as specified in DAI Mandatory Service Bulletin MSB 42–120/2, dated June 7, 2017. See figure 1 to paragraph (f)(1)(ii) of this AD for additional information on the sequence of installation actions as identified in DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017. Credit is not given for installation of an engine exhaust clamp installed following DAI Work Instruction WI–MSB 42–120, Revision 1, dated December 14, 2016, (installation of exhaust clamp without spring washers), or DAI Work Instruction MSB–42–120, Revision 2, dated June 7, 2017.

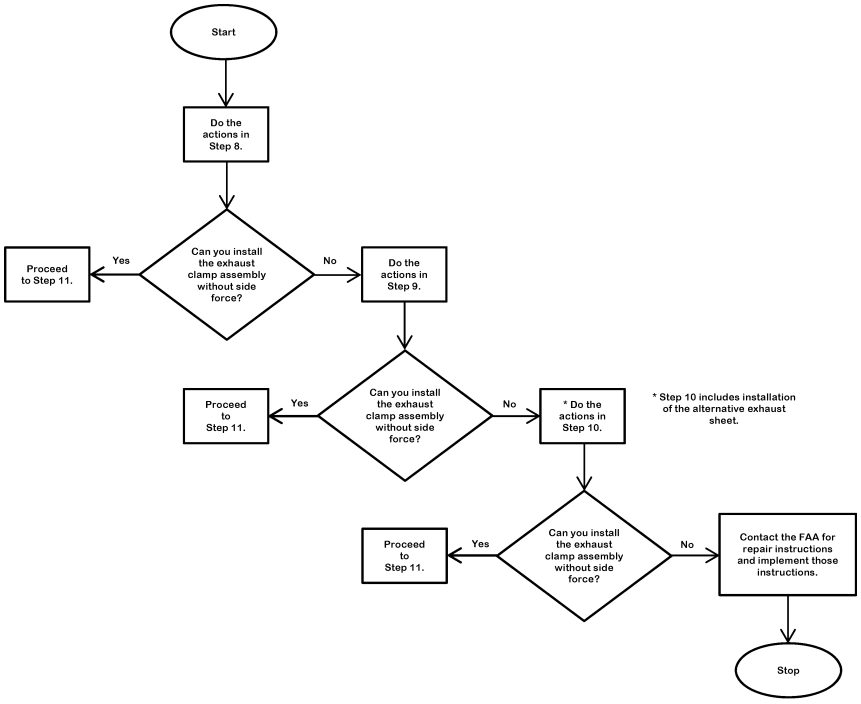


Figure 1 to paragraph (f)(1)(ii) of this AD:
Sequence of Actions for Exhaust Clamp Installation of
DAI Work Instruction WI-MSB 42-120, Revision 3, dated July 6, 2017

(2) Within 25 hours TIS after the installation required by paragraph (f)(1)(ii) of this AD and repetitively thereafter at intervals not to exceed 25 hours TIS, inspect each engine exhaust clamp for cracks following III.3 Action 3—Inspection of exhaust clamp for cracks of the INSTRUCTIONS section DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, as specified in DAI Mandatory Service Bulletin MSB 42–120/2, dated June 7, 2017.

(3) If any crack(s) is found on any engine exhaust clamp during any inspection required by this AD, before further flight, replace or modify the affected engine exhaust clamp(s) following III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, as specified in DAI Mandatory Service Bulletin MSB 42–120/2, dated June 7, 2017.

(4) If during any replacement or modification required by this AD the exhaust clamp assembly cannot be installed without side force using step 10 of III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, before further flight contact the FAA at the address specified in paragraph (i) of this AD to obtain and incorporate an FAA-approved repair/modification approved specifically for this AD. The FAA will coordinate with the European Aviation Safety Agency (EASA) and DAI for the development of a repair/modification to address the specific problem.

(5) The replacement required by paragraphs (f)(1)(ii) or (f)(3) of this AD does not terminate the repetitive inspections required by paragraph (f)(2) of this AD when DAI part numbers (P/N) D60–7806–00–01 and P/N D60–7806–00–02 engine exhaust clamps are installed.

(6) Within 10 days after any inspection where a cracked clamp is found or within 10 days after August 1, 2017 (the effective date of this AD), whichever occurs later, report the results to the FAA at the address specified in paragraph (i)(1) of this AD and to DAI at the address specified in paragraph (j)(3) of this AD. Report all the information included in the Appendix to this AD.

**(g) Paperwork Reduction Act Burden Statement**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(h) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Standards Office, 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 (i) of this AD.

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

**(i) Related Information**

(1) For more information about this AD, contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

(2) Refer to MCAI EASA AD No.: 2017–0120, dated July 13, 2017, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0640.

**(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 the AD specifies otherwise.

(i) Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42–120/2, dated June 7, 2017.

(ii) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017.

(3) For Diamond Aircraft Industries GmbH service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2017–0640.

(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.*

**Appendix to AD 2017–15–09**

Airplane Serial Number: _____

Total Hours TIS of the Airplane: _____

Total Hours TIS Since Clamp was Installed:

Clamp was installed on:

____ Left-hand Engine Only

____ Right-hand Engine Only

____ Both Engines

Number of Inspections Since Found Cracked: _____

Clamp installed per: _____ Section 8, _____ Section 9, or _____Section 10 of subsection III.2 of Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017.

Clamp installed per the following Revision level of Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–120:

____ Original Issue

____ Revision 1

____ Revision 2

Issued in Kansas City, Missouri, on July 19, 2017.

**Melvin Johnson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15669 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2017–0331; Directorate Identifier 2016–NM–213–AD; Amendment 39–18971; AD 2017–15–11]**

**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 DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. This AD was prompted by reports of undamped main landing gear (MLG) extension in-service. This AD requires replacement of the MLG retraction actuator rod-ends on both MLG assemblies. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 5, 2017.

**ADDRESSES:** For service information identified in this final rule, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@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–2017–0331.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0331; 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:** Fabio Buttitta, 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 516–228–7303; 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 DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. The NPRM published in the **Federal Register** on May 2, 2017 (82 FR 20453) (''the NPRM''). The NPRM was prompted by reports of undamped MLG extension in-service. The NPRM proposed to require replacement of the MLG retraction actuator rod-ends on both MLG assemblies. We are issuing this AD to prevent MLG undamped extensions, which could result in MLG structural failure, resulting in an unsafe asymmetric landing gear configuration.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–36, dated November 22, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition

for certain Bombardier, Inc., Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. The MCAI states:

Two cases of undamped main landing gear (MLG) extension were reported in-service. Investigation determined that the MLG retraction actuator rod-ends failed as a result of non-conforming threads. This condition, if not corrected, could lead to additional MLG undamped extensions, which may result in MLG structural failure, resulting in an unsafe asymmetric landing gear configuration.

This [Canadian] AD mandates the replacement of the MLG retraction actuator rod-end subassemblies manufactured with non-conforming threads with units that fully conform to the design requirements.

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–2017–0331.

**Comments**

We gave the public the opportunity to participate in developing this AD. We considered the comment received. Air Line Pilots Association, International 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**

Bombardier, Inc., issued Service Bulletin 8–32–179, Revision A, dated March 9, 2017. This service information describes procedures for replacing the MLG retraction actuator rod-ends on both MLG assemblies with units that fully conform to the design requirements. 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 91 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 | 3 work-hours × $85 per hour = $255 | $2,078 | $2,333 | $212,303 |

**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):

**2017–15–11 Bombardier, Inc.:** Amendment 39–18971; Docket No. FAA–2017–0331; Directorate Identifier 2016–NM–213–AD.

**(a) Effective Date**

This AD is effective September 5, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc., Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes, certificated in any category, serial numbers 003 through 672 inclusive, equipped with main landing gear (MLG) retraction actuator assembly part number 10500–101, –103, –501, –551, or –553.

**(d) Subject**

Air Transport Association (ATA) of America Code 32, Landing Gear.

**(e) Reason**

This AD was prompted by reports of undamped MLG extension in-service. We are issuing this AD to prevent MLG undamped extensions, which could result in MLG structural failure, resulting in an unsafe asymmetric landing gear configuration.

**(f) Compliance**

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

**(g) Replacement of MLG Retraction Actuator Rod-Ends**

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Replace the MLG retraction actuator rod-ends on both MLG assemblies, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–179, Revision A, dated March 9, 2017.

(1) For MLG retraction actuator assemblies with 37,000 total flight cycles or more as of the effective date of this AD: Within 18 months or 2,700 flight cycles, whichever occurs first after the effective date of this AD.

(2) For MLG retraction actuator assemblies with fewer than 37,000 total flight cycles as of the effective date of this AD: Within 24 months or 3,600 flight cycles, whichever occurs first after the effective date of this AD.

**(h) Alternative Installation of Part Number (P/N) 10500–105, –503, or –555**

Installation of MLG retraction actuator assembly P/N 10500–105, –503, or –555 on both MLGs is acceptable for compliance with the replacement required by paragraph (g) of this AD.

**(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 Bombardier Service Bulletin 8–32–179, dated July 10, 2015.

**(j) 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 manager of the 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.

**(k) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–36, dated November 22, 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–2017–0331.

(2) For more information about this AD, contact Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7303; fax 516–794–5531.

(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) Bombardier Service Bulletin 8–32–179, Revision A, dated March 9, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@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 July 14, 2017.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15476 Filed 7–31–17; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2017–0333; Directorate Identifier 2017–NM–005–AD; Amendment 39–18974; AD 2017–15–14]**

**RIN 2120–AA64**

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

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–215–6B11 (CL–415 Variant) airplanes. This AD was prompted by a report indicating that an oxygen bottle was found loose while the clamp strap was in the locked position. This AD requires modification of the clamp strap and installation of additional shims, as applicable, to the flight crew's oxygen bottles' retaining structures. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 5, 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–2017–0333.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0333; 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:** Cesar Gomez, 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 516–228–7318; 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 CL–215–6B11 (CL–415 Variant) airplanes. The NPRM published in the

**Federal Register** on May 9, 2017 (82 FR 21482).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2016–33, dated October 12, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–215–6B11 (CL–415 Variant) airplanes. The MCAI states:

During the implementation of Service Bulletin (SB) 215–4051, the oxygen bottle was found loose while the clamp strap was in the locked position. This was determined to be caused by the quick release latch assembly not achieving the proper clamping pressure.

The release of the oxygen bottle due to improper clamping pressure may result in a loose mass cockpit hazard or an oxygen rich environment leading to a possible fire hazard.

In order to mitigate the unsafe condition, SB 215–4457 was issued to modify the clamp strap and install additional shims to add strength to the attaching structure for all affected aeroplanes.

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–2017–0333.

## 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

Bombardier, Inc., has issued Service Bulletin 215–4457, Revision 3, dated May 8, 2013. The service information describes procedures for installing shims, and, for certain airplanes, modifying the straps of the latch assembly, on the flight crew's oxygen bottles' retaining structure. 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 24 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 |
|---|---|---|---|---|
| Modification and installation ... | 16 work-hours × $85 per hour = $1,360 ..... | $2,250 | $3,610 | $86,640 |

## 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):

**2017–15–14 Bombardier, Inc. (Type Certificate Previously Held by Canadair Limited):** Amendment 39–18974; Docket No. FAA–2017–0333; Directorate Identifier 2017–NM–005–AD.

**(a) Effective Date**

This AD is effective September 5, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc. (Type Certificate previously held by Canadair Limited) Model CL–215–6B11 (CL–415 Variant) airplanes, certificated in any category, having serial numbers 2001, 2002, 2005 through 2007 inclusive, 2010, 2012 through 2017 inclusive, 2019, 2022 through 2024 inclusive, 2026, 2057, 2063, 2065, 2076, 2077, and 2081.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report indicating that an oxygen bottle was found loose while the clamp strap was in the locked position. We are issuing this AD to prevent an oxygen bottle from being released, which would result in a loose mass object in the

cockpit and could also result in an oxygen-rich environment that could lead to a possible fire hazard.

**(f) Compliance**

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

**(g) Installation and Modification**

Within 12 months after the effective date of this AD, install additional shims and modify the clamp strap, as applicable, to the flight crew's oxygen bottles' retaining structures, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–4457, Revision 3, dated May 8, 2013.

**(h) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using any of the service information identified in paragraphs (h)(1), (h)(2), or (h)(3) of this AD.

(1) Bombardier Service Bulletin 215–4457, Revision 2, dated October 24, 2012.

(2) Bombardier Service Bulletin 215–4457, Revision 1, dated June 12, 2012.

(3) Bombardier Service Bulletin 215–4457, dated April 4, 2012.

**(i) 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 manager of the 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 Viking Air Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2016–33, dated October 12, 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–2017–0333.

(2) For more information about this AD, contact Cesar Gomez, 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 516–228–7318; fax 516–794–5531.

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

**(k) Material Incorporated by Reference**

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

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

(i) Bombardier Service Bulletin 215–4457, Revision 3, dated May 8, 2013.

(ii) Reserved.

(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 July 19, 2017.

**Victor Wicklund,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15555 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2017–0250; Directorate Identifier 2016–NM–158–AD; Amendment 39–18976; AD 2017–15–16]**

**RIN 2120–AA64**

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

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This AD was prompted by a report of airplanes with modified gust lock levers that prevented the thrust lever's full excursion, thus limiting the engine power. This AD requires replacing a certain gust lock lever. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 5, 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–2017–0250.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0250; 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 notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The NPRM published in the **Federal Register** on April 20, 2017 (82 FR 18590) (''the NPRM'').

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2016–07–01, dated July 18, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The MCAI states:

ANAC was informed about occurrences in which airplanes that incorporated SB 145–27–0115, which changes the Gust Lock lever format, managed to takeoff, or performed [rejected take-offs] RTOs, in such a configuration that the Gust Lock lever prevented the thrust levers full excursion, thus limiting the engine power to about 70% of the nominal takeoff power. Analyses and simulations conducted by the manufacturer confirmed this as a possible scenario in case some verification procedures prior to and during takeoff, for whatever reason, are not properly performed. After evaluation, the conclusion was that the incorporation of SB 145–27–0115 would take away an important tactile cue regarding the thrust levers position, which, in a timely manner, would alert the crew of an improper takeoff configuration. During takeoffs, or attempts thereof, in such condition, the airplane would have a reduced performance, which would increase the required takeoff distance or the RTO distance, and reduce the airplane capacity to clear obstacles.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this [Brazilian] AD in the indicated time limit.

Required actions include replacing a certain gust lock lever. 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–2017–0250.

## Comments

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

## Request To Revise the Compliance Time

Air Line Pilots Association, International (ALPA) requested that the compliance time in the NPRM be revised. ALPA stated that since the Embraer service information was published 19 months prior, operators have been provided ample time to perform inspections to determine whether a corrective action is required. ALPA commented that, therefore, it is in partial support of the NPRM and suggested an inspection compliance time of 12 months or 2,500 flight hours after the effective date of the AD, and a repair compliance time of 24 months or 5,000 hours after the effective date of the AD.

We disagree with the commenter's request. In developing an appropriate compliance time, we considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of inspecting and replacing the gust lock lever. Further, we arrived at the proposed compliance time with operator and manufacturer concurrence. Since the actions specified in the Brazilian AD and service information are not mandatory in the U.S., the FAA must issue a final rule to mandate those actions in order to address the identified unsafe condition. In consideration of all of these factors, we determined that the compliance time, as proposed, represents an appropriate time in which the gust lock lever can be inspected and replaced in a timely manner within the fleet, while still maintaining an adequate level of safety. 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 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 have reviewed Embraer Service Bulletin 145–27–0126, dated October 6, 2015. This service information describes procedures for replacement of a certain gust lock lever for one with an alternative format.

We have also reviewed Embraer Service Bulletin 145–27–0115, Revision 03, dated October 5, 2015. This service information describes modification procedures involving replacement of the gust lock lever with a new gust lock lever enabling both engine thrust levers to be advanced at the same angle as that of the electromechanical gust lock lever.

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 668 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 | 1 work-hour × $85 per hour = $85 | $0 | $85 | $56,780 |

We estimate the following costs to do any necessary replacements that would be required based on the results of the 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 | 1 work-hour × $85 per hour = $85 | $6,315 | $6,400 |

## 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):

**2017–15–16 Empresa Brasileira de Aeronautica S.A. (Embraer):** Amendment 39–18976; FAA–2017–0250; Directorate Identifier 2016–NM–158–AD.

**(a) Effective Date**

This AD is effective September 5, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB–135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report of airplanes with modified gust lock levers that performed take-offs or rejected take-offs (RTOs), in such a configuration that the gust lock lever prevented the thrust lever's full excursion, thus limiting the engine power to about 70% of the nominal take-off power. We are issuing this AD to prevent incorrect configuration of the gust lock lever, which could reduce the airplane's performance during take-offs or attempted take-offs, increase the required take-off distance or the RTO distance, and reduce the airplane's capacity to clear obstacles.

**(f) Compliance**

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

**(g) Inspection**

Within 5,000 flight hours or 24 months after the effective date of this AD, whichever occurs first: Check the airplane maintenance records to determine whether the actions specified in Embraer Service Bulletin 145–27–0115 have been done. If the records review is inconclusive, inspect the engine control box assembly against the Accomplishment Instructions of Embraer Service Bulletin 145–27–0115, Revision 03, dated October 5, 2015, to determine whether the actions specified in Embraer Service Bulletin 145–27–0115 have been done.

**(h) Corrective Action**

If the check or inspection required by paragraph (g) of this AD indicates that the actions in Embraer Service Bulletin 145–27–0115 have been done: Within 5,000 flight hours or 24 months after the effective date of this AD, whichever occurs first, replace the gust lock lever, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–27–0126, dated October 6, 2015.

**(i) Acceptable Alternative**

Modification of the airplane to a pre-modification condition (configuration before incorporating Embraer Service Bulletin 145–27–0115), within the compliance times specified in paragraph (h) of this AD, in accordance with 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, is acceptable for compliance with paragraph (h) of this AD.

**(j) Prohibited Modification**

As of the effective date of this AD, do not accomplish the actions specified in Embraer Service Bulletin 145–27–0115 on any airplane.

**(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, 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:* 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 ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

**(l) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2016–07–01, dated July 18, 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–2017–0250.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Branch, ANM–116, 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.

(i) Embraer Service Bulletin 145–27–0115, Revision 03, dated October 5, 2015.

(ii) Embraer Service Bulletin 145–27–0126, dated October 6, 2015.

(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 July 19, 2017.

**Victor Wicklund,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15807 Filed 7–31–17; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2016–9307; Directorate Identifier 2016–NM–076–AD; Amendment 39–18970; AD 2017–15–10]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–9 airplanes. This AD was prompted by a determination that the shoulder bolt used on the outboard clevis of the forward support fitting of the ram air turbine (RAT) might not be long enough to allow for proper installation of the RAT; therefore, the clevis of the joint could be clamped together, resulting in reduced fatigue life and possible fracture of the clevis. This AD requires inspecting for cracking of the clevis of the forward support fitting of the RAT, installing a longer shoulder bolt, and replacing the forward support fitting if any cracking is found. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 5, 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; 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–2016–9307.

### 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–2016–9307; 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:** Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6490; fax: 425–917–6590; email: *kelly.mcguckin@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–9 airplanes. The NPRM published in the **Federal Register** on November 28, 2016 (81 FR 85448) (''the NPRM''). The NPRM was prompted by a determination that the shoulder bolt used on the outboard clevis of the forward support fitting of the RAT might not be long enough to allow for proper installation of the RAT; therefore, the clevis of the joint could be clamped together, resulting in reduced fatigue life and possible fracture of the clevis. The NPRM proposed to require inspecting for cracking of the clevis of the forward support fitting of the RAT, installing a longer shoulder bolt, and replacing the forward support fitting with a new fitting if any cracking is found. We are issuing this AD to prevent fracture of the clevis of the forward support fitting of the RAT, which could result in the RAT departing the airplane during a dual non-restartable engine loss, and consequent loss of control of the airplane, or injury to maintenance crews during periodic RAT ground tests.

### 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

Boeing and Ahmed Ahmed Hamdy concur with the content of the NPRM.

**Request To Clarify Certain Requirements**

United Airlines (UAL) asked that we clarify the credit language used in paragraph (h) of the proposed AD. UAL stated that, as written, paragraph (h) of the proposed AD specifies that previous accomplishment of Boeing Message TBC–CAL–15–0089–01B, dated September 22, 2015 (identified in paragraph (h)(3) of the proposed AD), provides credit for the actions required by paragraph (g) of the proposed AD. UAL noted that if the intent is to give credit for all the actions specified in paragraph (g) of the proposed AD, it's incorrect because that Boeing message only provides procedures to replace the subject bolt; the high frequency eddy current (HFEC) inspection and fitting replacement are not included in those procedures.

We agree that clarification of paragraph (h) of this AD is necessary. We have revised paragraph (h) of this AD to provide credit for the shoulder bolt replacement specified in paragraph (g) of this AD, if it was performed before the effective date of this AD using the applicable service information specified in paragraph (h) of this AD.

**Request To Replace the Bolt Before Accomplishing the Inspection**

UAL asked that we allow replacement of the shoulder bolt before accomplishing the HFEC inspection, which will shorten the time for the replacement. UAL stated that the 12,000-flight-hour or 24-month time limit to accomplish all actions in paragraph (g) of the proposed AD is understandable; however, due to the possibility of extended downtime if the fitting replacement is required, the HFEC inspection must be done during a heavy maintenance check, which could be a considerable amount of time after the effective date of the AD. UAL added that Boeing Alert Service Bulletin B787–81205–SB290031–00, Issue 001, dated March 25, 2016, does not separate the bolt replacement from the inspection, but the proposed AD should provide that option.

We do not agree with the commenter's request. A fracture of the clevis of the forward support fitting of the RAT will not be addressed by replacing the subject bolt without an HFEC inspection of the fitting. When operators replace the bolt, they must also inspect the fitting. Replacing the bolt without inspecting this fitting could result in undetected cracking in the fitting, which is the cause of the unsafe condition in this AD. Repetitive removal and replacement of the bolt may also cause further stress on the forward support fitting, which could contribute to additional cracking of the fitting, especially if the fitting is already cracked. Paragraph (h) of this AD provides credit to operators that have replaced the subject bolt prior to the effective date of this AD. However, as of the effective date of this AD, when complying with paragraph (g) of this AD, all corrective actions must be done before further flight. We acknowledge that replacing the fitting due to potential inspection findings will require significant effort and downtime; however, only two airplanes of U.S. Registry are affected by the requirements of this AD. With a limited number of airplanes affected and a relatively long compliance time provided, operators should have adequate time to schedule the maintenance for accomplishing the actions required by this AD. Therefore, we have made no changes to this AD in this regard.

**Request To Change Unsafe Condition**

One commenter, Julia Stotts, asked that we change the unsafe condition identified in the NPRM from ''. . . to prevent fracture of the clevis of the forward support fitting of the RAT, which could result in the RAT departing the airplane during a dual non-restartable engine loss, and consequent loss of control of the airplane, or injury to maintenance crews during periodic RAT ground tests'' to ''. . . detect and correct fatigue cracking in the forward engine mounts, which could result in reduced structural integrity of the airplane and could lead to in-flight loss of an engine, possibly resulting in reduced controllability of the airplane.'' The commenter suggested the change to encompass both fracture of the clevis and the possibility of the RAT departing from the airplane, which could lead to loss of an engine.

We do not agree with the commenter's request. The commenter provided no justification for revising the unsafe condition to include fatigue cracking in the forward engine mounts and possible loss of an engine. The unsafe condition in this AD stems from a determination that the shoulder bolt used on the outboard clevis of the forward support fitting of the RAT might not be long enough to allow for proper installation of the RAT; therefore, the clevis of the joint could be clamped together, resulting in reduced fatigue life and possible fracture of the clevis causing possible departure of the RAT from the airplane. The suggested change is not related to the identified unsafe condition or the potential end level effect resulting from that unsafe condition. We have made no changes to this AD in this regard.

**Conclusion**

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

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

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

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin B787–81205–SB290031–00, Issue 001, dated March 25, 2016. The service information describes procedures for inspecting for cracking of the clevis of the forward support fitting of the RAT, installing a longer shoulder bolt, and replacing the forward support fitting with a new fitting if any cracking is found. 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 2 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/shoulder bolt replacement ..... | 3 work-hours × $85 per hour = $255 ..... | $152 | $407 | $814 |

We estimate the following costs to do any necessary replacements of the forward support fitting 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 replacements:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Forward support fitting replacement | 15 work-hours × $85 per hour = $1,275 | $28,309 | $29,584 |

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

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):

**2017–15–10 The Boeing Company:** Amendment 39–18970; Docket No. FAA–2016–9307; Directorate Identifier 2016–NM–076–AD.

**(a) Effective Date**

This AD is effective September 5, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 787–9 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB290031–00, Issue 001, dated March 25, 2016.

**(d) Subject**

Air Transport Association (ATA) of America Code 29; Hydraulic power.

**(e) Unsafe Condition**

This AD was prompted by a determination that the shoulder bolt used on the outboard clevis of the forward support fitting of the ram air turbine (RAT) might not be long enough to allow for proper installation of the RAT; therefore, the clevis of the joint could be clamped together, resulting in reduced fatigue life and possible fracture of the clevis. We are issuing this AD to prevent fracture of the clevis of the forward support fitting of the RAT, which could result in the RAT departing the airplane during a dual non-restartable engine loss, and consequent loss of control of the airplane, or injury to maintenance crews during periodic RAT ground tests.

**(f) Compliance**

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

**(g) Inspection, Replacement of Shoulder Bolt, and Replacement of RAT Forward Support Fitting if Necessary**

Within 12,000 flight hours or 24 months after the effective date of this AD, whichever occurs first: Do a high frequency eddy current inspection for cracking of the clevis of the forward support fitting of the RAT, and install a longer shoulder bolt, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290031–00, Issue 001, dated March 25, 2016. If any cracking is found, before further flight, replace the RAT forward support fitting with a new fitting, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290031–00, Issue 001, dated March 25, 2016.

**(h) Credit for Previous Actions**

This paragraph provides credit for the shoulder bolt replacement specified in paragraph (g) of this AD, if that action was performed before the effective date of this AD using the applicable service information specified in paragraph (h)(1), (h)(2), (h)(3), or (h)(4) of this AD.

(1) Boeing Message TBC–ANA–15–0272–01B, dated September 22, 2015.

(2) Boeing Message TBC–ANZ–15–0016–06B, dated October 14, 2015.

(3) Boeing Message TBC–CAL–15–0089–01B, dated September 22, 2015.

(4) Boeing Message TBC–VAA–15–0089–01B dated September 22, 2015.

**(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)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair,

modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes 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. 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**

(1) For more information about this AD, contact Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6490; fax: 425–917–6590; email: *kelly.mcguckin@faa.gov*.

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

**(k) Material Incorporated by Reference**

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

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

(i) Boeing Alert Service Bulletin B787–81205–SB290031–00, Issue 001, dated March 25, 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; 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 July 14, 2017.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15486 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2016–9055; Directorate Identifier 2016–NM–071–AD; Amendment 39–18977; AD 2017–15–17]**

**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 A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–600R series airplanes. This AD was prompted by the results of a full stress analysis of the lower area of a certain frame that revealed that a crack could occur in this area after a certain number of flight cycles. This AD requires an inspection of the lower area of a certain frame radius for cracking, and corrective action if necessary. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 5, 2017.

**ADDRESSES:** For service information identified in this final rule, 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9055.

**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–2016–9055; 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:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; 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 Airbus Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–600R series airplanes. The SNPRM published in the **Federal Register** on March 2, 2017 (82 FR 12314) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on September 8, 2016 (81 FR 62026) (''the NPRM''). The NPRM proposed to require an inspection of the lower area of a certain frame radius for cracking, and corrective action if necessary. The NPRM was prompted by the results of a full stress analysis of the lower area of a certain frame that revealed a crack could occur in the forward fitting lower radius of a certain frame after a certain number of flight cycles. The SNPRM proposed to require extending the area to be inspected for cracking and adding an inspection for previously inspected airplanes. We are issuing this AD to detect and correct cracking in the forward fitting lower radius of a certain frame. Such cracking could reduce the 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 AD 2016–0179, dated September 12, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the

MCAI''), which superseded EASA AD 2016–0085, dated April 28, 2016. EASA AD 2016–0085 was the MCAI referred to in the NPRM.

The MCAI was issued to correct an unsafe condition for certain Airbus Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–600R series airplanes. The MCAI states:

Following a full stress analysis of the Frame (FR) 40 lower area, supported by a Finite Element Model (FEM), of the post-mod 10221 configuration, it was demonstrated that, for the FR40 forward fitting lower radius, a crack could occur after a certain amount of flight cycles (FC).

This condition, if not detected and corrected, could reduce the structural integrity of the fuselage.

To address this potential unsafe condition, Airbus established that crack detection could be achieved through a special detailed inspection (SDI) using a high frequency eddy current (HFEC) method, and issued Alert Operators Transmission (AOT) A57W009–16 to provide those inspection instructions.

Consequently, EASA issued AD 2016–0085 to require a one-time SDI of the FR40 lower area and, depending on findings, accomplishment of applicable corrective action(s).

Since that [EASA] AD was issued, further cracks were detected, originating from the fastener hole, and, based on these findings, it was determined that inspection area must be enlarged, and Airbus AOT A57W009–16 Revision (Rev.) 01 was issued accordingly.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2016–0085, which is superseded, extends the area of inspection, and requires an additional inspection for aeroplanes previously inspected.

The one-time SDI for high cycle aeroplanes is intended to mitigate the highest risks within the fleet. Airbus is currently developing instructions for repetitive inspections that are likely to be the subject of further [EASA] AD action.

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–2016–9055.

## Comments

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

### Requests To Refer to New Service Information

FedEx and United Parcel Service (UPS) requested that the SNPRM be revised to refer to a service bulletin that Airbus plans to release to replace Airbus Alert Operators Transmission (AOT) A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016 (''AOT A57W009–16, Rev 01''). AOT A57W009–16, Rev 01, was identified as the service information to be used to accomplish the actions specified in the SNPRM. UPS noted that the service bulletin would include information based on in-service reports from operators who had accomplished the inspection identified in AOT A57W009–16, Rev 01, and based on the results of a full stress analysis of the frame (FR) 40 lower area. Based on this information Airbus changed the initial inspection compliance time from what was specified in AOT A57W009–16, Rev 01, and established repetitive inspection intervals. FedEx and UPS both mentioned that to reduce the number of alternative method of compliance (AMOC) requests, the SNPRM should be revised to include the service bulletin. UPS also noted that including the service information would benefit the FAA because the FAA could avoid future rulemaking regarding this issue.

We partially agree with the commenters' requests. After the SNPRM was published, Airbus issued Service Bulletin A300–57–6120, dated April 28, 2017. However, instead of removing the reference to AOT A57W009–16, Rev 01, in this AD, we have added paragraph (j) to this AD to allow operators to do the required actions in accordance with the Accomplishment Instructions of Service Bulletin A300–57–6120, dated April 28, 2017. We have redesignated the subsequent paragraphs accordingly.

### Request To Revise Reporting Method

FedEx requested that paragraph (j) of the proposed AD (in the SNPRM) be revised to provide flexibility regarding the method of reporting inspection results to Airbus. FedEx stated that to utilize the Airbus online reporting system would require substantial updates to its information technology systems and personnel training; therefore, it is not prepared to utilize the online reporting system at this time. FedEx suggested that the older method of reporting be allowed until it has the computer and personnel resources in place to utilize online reporting.

We agree with the commenter's request. We have determined that operators may use either the online or older reporting method. We have revised paragraph (k) of this AD (paragraph (j) of the proposed AD (in the SNPRM)) to allow operators to report inspection findings using the online reporting system or submit the results to Airbus in accordance with the instructions of Airbus Service Bulletin A300–57–6120, dated April 28, 2017.

## Conclusion

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

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

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

## Related Service Information Under 1 CFR Part 51

We reviewed Airbus AOT A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016. This service information describes procedures for a one-time inspection of the forward fitting lower radius of FR 40 for cracking, and corrective action.

We have also reviewed Airbus Service Bulletin A300–57–6120, dated April 28, 2017. This service information describes procedures for repetitive inspections of the forward fitting lower radius of FR 40 for cracking, and corrective action.

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 94 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 | 3 work-hours × $85 per hour = $255 | $0 | $255 | $23,970 |
| Report | 1 work-hour × $85 per hour = $85 | 0 | 85 | 7,990 |

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

**Paperwork Reduction Act**

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

**Authority for This Rulemaking**

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

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

**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):

**2017–15–17 Airbus:** Amendment 39–18977; Docket No. FAA–2016–9055; Directorate Identifier 2016–NM–071–AD.

**(a) Effective Date**

This AD is effective September 5, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, on which Airbus Modification 10221 was embodied in production.

(1) Airbus Model A300 B4–605R and B4–622R airplanes.

(2) Airbus Model A300 C4–605R Variant F airplanes.

(3) Airbus Model A300 F4–605R and F4–622R airplanes.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by the detection of cracking that originated from the fastener holes in the forward fitting lower radius of frame (FR) 40. We are issuing this AD to detect and correct cracking in the forward fitting lower radius of FR 40. Such cracking could reduce the structural integrity of the fuselage.

**(f) Compliance**

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

**(g) Inspection**

At the later of the compliance times specified in paragraphs (g)(1) and (g)(2) of this AD, do a high frequency eddy current (HFEC) inspection of the lower area of the FR 40 radius for cracking, in accordance with paragraph 4.2.2 in Airbus Alert Operators Transmission (AOT) A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016.

(1) Prior to exceeding 19,000 total flight cycles or 41,000 total flight hours since the airplane's first flight, whichever occurs first.

(2) Within 300 flight cycles or 630 flight hours after the effective date of this AD, whichever occurs first.

**(h) Additional Inspection for Previously Inspected Airplanes**

For airplanes on which the HFEC inspection required by paragraph (g) of this AD was accomplished before the effective date of this AD using the procedures in Airbus AOT A57W009–16, Rev 00, including Appendices 1 and 2, dated February 25, 2016: Within 300 flight cycles or 630 flight hours after the effective date of this AD, whichever occurs first, do a one-time additional HFEC inspection of the lower area of the FR 40 radius for cracking, in accordance with paragraph 4.2.2 in Airbus

AOT A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016.

**(i) Corrective Action**

If any crack is found during the inspection required by paragraph (g) or (h) of this AD: Before further flight, do the applicable corrective actions in accordance with the procedures in Airbus AOT A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016. Where AOT A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016, specifies to contact Airbus for appropriate action, accomplish the corrective actions in accordance with the procedures specified in paragraph (m)(2) of this AD.

**(j) Optional Service Information for Accomplishing Required Actions**

Accomplishment of the actions required by paragraphs (g), (h), and (i) of this AD, in accordance with, and at the compliance times specified in, the Accomplishment Instructions of Airbus Service Bulletin A300–57–6120, dated April 28, 2017, is acceptable for compliance with the requirements of those paragraphs.

**(k) Reporting Requirement**

Submit a report of all findings (both positive and negative) from the inspection required by paragraph (g) of this AD to Airbus Customer Services through TechRequest on Airbus World (*https://w3.airbus.com/*) by selecting Engineering Domain and ATA 57–10; or submit the results to Airbus in accordance with the procedures in Airbus Service Bulletin A300–57–6120, dated April 28, 2017.

(1) For airplanes on which the inspection specified in paragraph (g) of this AD is accomplished on or after the effective date of this AD: Submit the report within 30 days after performing the inspection.

(2) For airplanes on which the inspection specified in paragraph (g) of this AD is accomplished before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(l) Credit for Previous Actions**

This paragraph provides credit for the action required by paragraph (g) of this AD, if that action was done before the effective date of this AD using Airbus AOT A57W009–16, Rev 00, including Appendices 1 and 2, dated February 25, 2016, provided the inspection required by paragraph (h) of this AD is accomplished.

**(m) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, 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 (n)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(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 European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(n) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0179, dated September 12, 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–2016–9055.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

**(o) Material Incorporated by Reference**

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

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

(i) Airbus Alert Operators Transmission A57W009–16, Rev 01, including Appendices 1 and 2, dated July 13, 2016.

(ii) Airbus Service Bulletin A300–57–6120, dated April 28, 2017.

(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.*

(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 July 19, 2017.

**Victor Wicklund,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–15808 Filed 7–31–17; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2017–0142; Product Identifier 2016–SW–013–AD; Amendment 39–18979; AD 2017–16–02]**

**RIN 2120–AA64**

## Airworthiness Directives; Agusta S.p.A. Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Agusta S.p.A. Model A109S helicopters. This AD requires adding limitations to the rotorcraft flight manual (RFM). This AD was prompted by a report of a cabin liner detaching from the helicopter and hitting the main rotor (M/R) blades during flight. The actions of this AD are intended to prevent an unsafe condition on these products.

**DATES:** This AD is effective September 5, 2017.

**ADDRESSES:** For service information identified in this final rule, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39 0331–664680; or at *http://www.agustawestland.com/technical-bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0142; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

On April 10, 2017, at 82 FR 17156, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Agusta S.p.A. Model A109S helicopters. The NPRM proposed to require, within 15 hours time-in-service, revising the Limitations section of the RFM by inserting a copy of this AD or by making pen-and-ink changes to add several limitations: Prohibiting flight with a passenger cabin sliding door opened or removed for helicopters with Internal Arrangement part number (P/N) 109–0814–21–101 installed; prohibiting flight with a passenger cabin sliding door open unless modification P/N 109–0814–35 is installed; prohibiting flight with a passenger cabin sliding door open unless the doors are locked; establishing a maximum $V_{NE}$ with a passenger cabin sliding door opened or removed; establishing a maximum airspeed for opening or closing a passenger cabin sliding door during flight; and prohibiting instrument flight rule operation with any door opened or removed.

The NPRM was prompted by AD No. 2015–0227, dated November 19, 2015, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for the AgustaWestland S.p.A. Model A109S helicopters. EASA advises of a report that the right-hand lower cabin liner of Internal Arrangement P/N 109–0814–21–101 detached and hit three M/R blades during a landing with the right-hand door removed. EASA states that this condition, if not corrected, could lead to further occurrences of in-flight lower cabin liner detachment, possibly resulting in damage to or loss of control of the helicopter. Therefore, the EASA AD requires revising the RFM to provide limitations on flights with a passenger cabin sliding door opened or removed. EASA considers its AD an interim action and states further AD action may follow.

## Comments

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

## FAA's Determination

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

## Interim Action

We consider this AD to be an interim action. The design approval holder is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

## Related Service Information

We reviewed AgustaWestland A109S RFM, Document No. 109G0040A013, Issue 2, Revision 3, dated April 23, 2015, which adds several limitations regarding flight with a passenger cabin sliding door opened or removed.

## Costs of Compliance

We estimate that this AD affects 19 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per work-hour, revising the RFM takes about 0.5 work-hour, for an estimated cost of $43 per helicopter, or $817 for the U.S. fleet.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2017–16–02 Agusta S.p.A.:** Amendment 39–18979; Docket No. FAA–2017–0142; Product Identifier 2016–SW–013–AD.

**(a) Applicability**

This AD applies to Model A109S helicopters, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as detachment of an internal arrangement lower cabin liner. This condition could result in damage to a main rotor blade and subsequent loss of control of the helicopter.

**(c) Effective Date**

This AD becomes effective September 5, 2017.

**(d) Compliance**

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

**(e) Required Actions**

Within 15 hours time-in-service, revise Section 1 Limitations of the AgustaWestland Model A109S Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into the RFM or by making pen-and-ink changes to add the information in Figure 1 to paragraph (e) of this AD.

FIGURE 1 TO PARAGRAPH (e)

Flight with either one or both passenger cabin sliding doors opened or removed is prohibited if Internal Arrangement P/N 109–0814–21–101 is installed.
Flight with either one or both passenger cabin sliding doors opened is prohibited if passenger door modification P/N 109–0814–35 is not installed.
Flight with one or both passenger cabin sliding doors opened is allowed only with the doors locked.
$V_{NE}$ with any passenger cabin sliding door opened or removed: 75 KIAS.
Maximum airspeed for passenger cabin sliding doors opening or closing: 50 KIAS.
IFR operation is prohibited with any door opened or removed.

**(f) Credit for Previous Actions**

Incorporating the changes contained in AgustaWestland A109S RFM, Document No. 109G0040A013, Issue 2, Revision 3, dated April 23, 2015, into Section 1 of the RFM before the effective date of this AD is considered acceptable for compliance with this AD.

**(g) Special Flight Permits**

Special flight permits are prohibited.

**(h) Alternative Methods of Compliance (AMOCs)**

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

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

**(i) Additional Information**

(1) AgustaWestland A109S RFM Document No. 109G0040A013, Issue 2, Revision 3, dated April 23, 2015, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39 0331–664680; or at *http://www.agustawestland.com/technical-bulletins*. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2015–0227, dated November 19, 2015. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2017–0142.

**(j) Subject**

Joint Aircraft Service Component (JASC) Code: 2500, Cabin Equipment/Furnishings.

Issued in Fort Worth, Texas, on July 25, 2017.

**Scott A. Horn,**

*Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2017–16144 Filed 7–31–17; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2017–0210; Airspace Docket No. 17–AGL–10]**

## Amendment of Class D and E Airspace; Kenosha, WI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class D airspace, Class E airspace designated as a surface area, and Class E airspace extending upward from 700 feet above the surface, and removes Class E airspace designated as an extension of Class D airspace at Kenosha Regional Airport, Kenosha, WI. This action is required due to the decommissioning of the Kenosha VHF omnidirectional range (VOR), which provided navigation guidance for portions of the affected routes. This action enhances the safety and management of instrument flight rules (IFR) operations at the airport. Also, the airport name and geographic coordinates are adjusted in the Class E airspace extending upward from 700 feet above the surface.

**DATES:** Effective 0901 UTC, October 12, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies Class D airspace, Class E airspace designated as a surface area, and Class E airspace extending upward from 700 feet above the surface, and removes Class E airspace designated as an extension of Class D airspace at Kenosha Regional Airport, Kenosha, WI.

## History

On May 19, 2017, the FAA published in the **Federal Register** (82 FR 22922) Docket No. FAA–2017–0210, a notice of proposed rulemaking (NPRM) to modify Class D airspace, Class E airspace designated as a surface area, and Class E airspace extending upward from 700 feet above the surface, and remove Class E airspace designated as an extension of Class D airspace at Kenosha Regional Airport, Kenosha, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA determined that the exclusionary language contained in the Class E airspace extending upward from 700 feet above the surface airspace description is no longer required and has been removed in this action. Additionally, a typographical error was made in the geographic coordinates for the airport in the Class E airspace extending upward from 700 feet above the surface airspace description and has been corrected in this action.

Except for the changes noted above, this final rule is the same as published in the NPRM.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, 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 D and E airspace designations listed in this document will be published subsequently in the Order.

## Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, 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 Rule

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

Modifies the Class D airspace to within a 4.2-mile radius (increased from a 4.1-mile radius) of Kenosha Regional Airport, Kenosha, WI;

Modifies the Class E airspace designated as a surface area to within a 4.2-mile radius (increased from a 4.1-mile radius) of Kenosha Regional Airport, and removes the Kenosha VOR and the 7-mile extension northeast of the airport;

Removes the Class E airspace designated as an extension to Class D airspace at Kenosha Regional Airport; and

Modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile radius (reduced from a 7-mile radius) of Kenosha Regional Airport (formerly Kenosha Municipal Airport), with an extension from the Kenosha Localizer to 10 miles west of the localizer, and updates the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Kenosha VOR and to bring the airspace in compliance with FAA Order JO 7400.2L, Procedures for Handling Airspace Matters, at this airport. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at the airport.

Additionally, this action replaces the outdated term Airport/Facility Directory with the term Chart Supplement in the Class D and Class E surface area airspace legal descriptions.

## Regulatory Notices and Analyses

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

## Environmental Review

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

## Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

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

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

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

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

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

*Paragraph 5000 Class D Airspace.*

* * * * *

**AGL WI D Kenosha, WI [Amended]**

Kenosha Regional Airport, WI
(Lat. 42°35′45″ N., long. 87°55′40″ W.)

That airspace extending upward from the surface to and including 3,200 feet within a 4.2-mile radius of Kenosha Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective

date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

* * * * *

**AGL WI E2 Kenosha, WI [Amended]**

Kenosha Regional Airport, WI
(Lat. 42°35′45″ N., long. 87°55′40″ W.)

That airspace extending upward from the surface to and including 3,200 feet within a 4.2-mile radius of Kenosha Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

*Paragraph 6004 Class E Airspace Area Designated as an Extension of Class D Airspace.*

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**AGL WI E4 Kenosha, WI [Removed]**

* * * * *

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

* * * * *

**AGL WI E5 Kenosha, WI [Amended]**

Kenosha Regional Airport, WI
(Lat. 42°35′45″ N., long. 87°55′40″ W.)
Kenosha Localizer
(Lat. 42°36′04″ N., long. 87°55′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Kenosha Regional Airport, and within 9.9 miles north and 5.9 miles south of a 246° bearing from the Kenosha Localizer to 10 miles west of the Kenosha Localizer.

Issued in Fort Worth, Texas, on July 24, 2017.

**Walter Tweedy,**

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

[FR Doc. 2017–16098 Filed 7–31–17; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF JUSTICE

## 28 CFR Part 16

**[CPCLO Order No. 007–2017]**

## Privacy Act of 1974; Implementation

**AGENCY:** Federal Bureau of Investigation, United States Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Federal Bureau of Investigation (FBI), a component of the United States Department of Justice (DOJ or Department), is issuing a final rule to amend its Privacy Act exemption regulations for the system of records titled, ''Next Generation Identification (NGI) System,'' JUSTICE/FBI–009, last published in full on May 5, 2016. Specifically, the FBI exempts the records maintained in JUSTICE/FBI–009 from one or more provisions of the Privacy Act. The listed exemptions are necessary to avoid interference with the Department's law enforcement and national security functions and responsibilities of the FBI. This document addresses public comments on the proposed rule.

**DATES:** This final rule is effective August 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Roxane M. Panarella, Assistant General Counsel, Privacy and Civil Liberties Unit, Office of the General Counsel, FBI, Washington DC, telephone 304–625–4000.

**SUPPLEMENTARY INFORMATION:**

### Background

In 1990, the FBI published in the **Federal Register** a System of Records Notice (SORN) for the FBI system of records titled, ''Identification Division Records System,'' JUSTICE/FBI–009. JUSTICE/FBI–009 evolved into the ''Fingerprint Identification Records System (FIRS),'' also referred to as the ''Integrated Automated Fingerprint Identification System (IAFIS),'' published at 61 FR 6386 (February 20, 1996), which covered individuals arrested or incarcerated, individuals applying for Federal employment or military service, registered aliens or naturalized citizens, and individuals wishing to place their fingerprints on record for personal identification purposes. The FIRS SORN included the following records:

A. Criminal fingerprint cards and/or related criminal justice information submitted by authorized agencies having criminal justice responsibilities;

B. Civil fingerprint cards submitted by Federal agencies and civil fingerprint cards submitted by persons desiring to have their fingerprints placed on record for personal identification purposes;

C. Identification records sometimes referred to as ''rap sheets'' which are compilations of criminal history information pertaining to individuals who have criminal fingerprint cards maintained in the system; and

D. A name index pertaining to all individuals whose fingerprints are maintained in the system.

As the system expanded, records continued to fall within the general categories of records specified in the SORN. As a policy matter, however, and in an effort to better detail the enhancements made to the system, the FBI and DOJ determined that JUSTICE/FBI–009 should be modified to more fully describe the features and capabilities of the system, which has since been renamed the Next Generation Identification (NGI) System. Important enhancements to the NGI System include the increased retention and searching of fingerprints obtained for the purposes of licensing, employment, obtaining government benefits, and biometric services such as improved latent fingerprint searching and face recognition technology. Leading up to the publication of the modified SORN and a Notice of Proposed Rulemaking (NPRM) for the NGI System, the FBI conducted a series of Privacy Impact Assessments that detailed the steps taken by the FBI to fully assess the privacy impacts of new and modified NGI System components, addressing potential risks and mitigation techniques.

On May 5, 2016, the FBI issued a Notice of a Modified System of Records for the NGI System in the **Federal Register** at 81 FR 27284 (May 5, 2016), and an NPRM at 81 FR 27288 (May 5, 2016). In determining whether to claim exemptions, the FBI did not simply rely on exemptions granted to the predecessor system of records, but thoroughly evaluated the NGI System and its various components to determine whether exemptions were necessary. The necessary exemptions were proposed in the NPRM along with supporting rationales, and are to be codified in accordance with the issuance of this final rule.

### Response to Public Comments

In its NGI System NPRM and Notice of a Modified System of Records, published on May 5, 2016, the Department invited public comment. The comment periods for both documents were originally set to close on June 6, 2016, but were extended 30 days to allow interested individuals additional time to analyze the proposal and prepare their comments. The FBI received over 100 comments and letters from individuals, and from non-government, public interest, civil liberties, non-profit, and academic organizations. The FBI has closely reviewed and considered these comments. The following discussion is provided to respond to the NPRM comments and provide greater insight into the FBI's assessment of the need to claim exemptions from certain provisions of the Privacy Act for the NGI System.

Many questions and comments were received concerning the breadth and scope of the exemptions claimed. As

noted in the NPRM and reiterated here, the following exemptions apply only to the extent information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) or (k). Where compliance with an exempted section of the Privacy Act would not appear to interfere with or adversely affect the purposes of the NGI System to support law enforcement and to protect national security, the applicable exemption may be waived by the FBI in its sole discretion.

These exemptions are claimed with respect to the NGI System's records, which are compiled for the purposes of identifying criminal offenders or alleged criminal offenders, criminal investigations, and reports identifiable to an individual compiled throughout the criminal law enforcement process, including fingerprints, as well as associated biographic data, the nature and disposition of any criminal charges, and additional biometrics such as mugshots and palm prints, if available and if provided by the submitting agency. The NGI System records qualify for exemption from sections of the Privacy Act under 5 U.S.C. 552a(j)(2) because the FBI's principal function is the enforcement of criminal laws and the records maintained in the NGI System fall into one or more of the categories listed in (j)(2). Due to the evolving nature of identity records and investigations and the scope of the NGI System, certain NGI System records may fall outside the scope of (j)(2) and would qualify for the specific exemptions under 5 U.S.C. 552a(k)(2) and (5). The exercise of all exemptions is discretionary and the FBI will not exercise an exemption of any section of the Privacy Act that is not appropriate and necessary.

**5 U.S.C. 552a(c)(3), Accounting of Disclosures Upon Request of the Named Subject**

Some of the comments communicated concerns about claiming exemptions from accounting and audit disclosure requirements. As with exemptions claimed under subsections (c)(4) and (d), exemption from (c)(3) disclosure requirements is necessary to preserve the integrity of ongoing investigations. Revealing this information could compromise ongoing, authorized law enforcement and national security efforts by alerting an individual to collaborative law enforcement and national security investigations as well as the relative interests of the FBI and/or other investigatory agencies. Although the vast majority of NGI System disclosures need not be provided in an accounting request, the FBI must claim this additional exemption to ensure its ability to protect the integrity of ongoing investigations.

It is important to note that, despite claiming this exemption, the Privacy Act does not permit the FBI to exempt this system of records from the requirements codified under subsections 5 U.S.C. 552a(c)(1) and (c)(2). As a result, except under limited circumstances as outlined in the Privacy Act, the FBI is obligated to keep an accurate accounting of the date, nature, and purpose of each disclosure of a record maintained within this system of records, and retain the accounting for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

**5 U.S.C. 552a(d)(1), (2), (3) and (4), (e)(4)(G) and (H), (e)(8), (f), Access to and Amendment of Records**

Many of the comments received concerned exemptions regarding the access to and amendment of records pursuant to 5 U.S.C. 552a(d)(1), (2), (3) and (4), (e)(4)(G) and (H), (e)(8), and (f). As with exemptions claimed to (c)(3) and (c)(4), providing access to these records could compromise ongoing investigations. It is necessary for the FBI to claim these exemptions because the NGI System also contains latent fingerprints, as well as other biometrics, and associated personal information that may be law enforcement or national security sensitive. Compliance with these provisions could alert the subject of an authorized law enforcement activity about that particular activity and the interest of the FBI and/or other law enforcement agencies. With that said, as cited in both the SORN and the NPRM, separate federal regulations (*see* 28 CFR 16.30–16.34 and 28 CFR 20.34) inform individuals of the process to access and amend their criminal history records in the NGI System. These regulations permit any person to receive his or her criminal history record for review and correction. If the individual has no criminal history record in the NGI System, he or she receives a letter confirming the absence of such record. Pursuant to the regulations, after an individual receives his or her criminal history record, he or she may consult both the FBI and the relevant criminal justice agency to correct or update the record. The vast majority of records in the NGI System have been entered by state and local law enforcement and require coordination with those agencies.

In addition, pursuant to 28 CFR 50.12, agencies submitting fingerprints to the FBI for individuals seeking employment, licensing, or similar benefits are required to inform the applicants that their fingerprints will be searched in the NGI System and of the process for access and amendment under 28 CFR 16.30–16.34. The regulation also advises that agencies should afford the applicants the opportunity to correct or complete their records before making licensing or employment decisions. Additionally, for records claiming specific exemption under 5 U.S.C. 552a(k), if an individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, further access may be available.

Consequently, although the FBI has claimed exemptions to the notification, access, and amendment provisions of the Privacy Act for the NGI System, the FBI generally does not exercise these exemptions when doing so would not interfere with its law enforcement functions and responsibilities.

**5 U.S.C. 552a(g), Rights of Judicial Redress**

The comments received also expressed concerns about the FBI's exemption from 5 U.S.C. 552a(g), which grants individuals the right to certain civil remedies under the Privacy Act. As a matter of clarification, the Privacy Act only permits an agency to exempt 5 U.S.C. 552a(g) if the records in the system of records qualify for the general exemption provisions under 5 U.S.C. 552a(j). This exemption cannot be, and has not been, claimed for the records within the NGI System that qualify for only the specific exemptions under 5 U.S.C. 552a(k).

Additionally, many comments expressed concern that by claiming an exemption from 5 U.S.C. 552a(g), the FBI would somehow absolve itself of meeting even those provisions of the Privacy Act that are not subject to exemption because an individual's right to seek a cause of action for any provisions of the Privacy Act would be exempted. First, the FBI takes all of its constitutional and statutory requirements seriously, and does not limit its compliance to only those provisions of the Privacy Act subject to judicial redress. As addressed throughout this **SUPPLEMENTARY INFORMATION** section, even when an exemption is claimed, the FBI takes all reasonable and appropriate steps necessary to meet the requirements of the Privacy Act that would not interfere with its law enforcement functions and responsibilities. The FBI is subject to a number of oversight mechanisms to ensure compliance with its requirements under the Privacy Act,

including internal and external audits and inspections.

Second, while the FBI has proposed an exemption from this provision for the NGI System, the exemption regulation is clear that the FBI will only claim exemptions to the extent that information in this system of records is subject to an exemption pursuant to the Privacy Act. Many courts have interpreted an agency's decision to exempt the Privacy Act's civil remedies provisions as only an exemption from a cause of action based on an exempted provision. In those jurisdictions, individuals are still permitted to exercise their right of judicial redress, pursuant to 5 U.S.C. 552a(g), for those provisions of the Privacy Act that are not subject to exemption.

**5 U.S.C. 552a(e)(2), and (3), Collection Directly From the Individual**

Commenters also expressed concerns regarding the exemption from (e)(2) and (3) of the requirement to collect information directly from the individual.

The vast majority of the records in the NGI System are contributed by state and local law enforcement agencies. Because the FBI is neither the arresting official, nor the agency issuing the license, evaluating the individual for employment, or offering the benefit, it is impossible for the FBI to collect information directly from the subject. However, in most circumstances these other agencies create the records using information obtained directly from the subject with his or her knowledge.

Fingerprints and other biometrics and information are collected by other government agencies based on their legal authorities to collect such information and submit it to the FBI. For records created for the purpose of licensing, employment, or to obtain a government benefit, the FBI requires that specific notice be provided to the applicant. This notice, in the form of a Privacy Act statement, discloses the authority which authorizes the solicitation of the information, whether disclosure of such information is mandatory or voluntary, the principal purpose for which the information is intended to be used, the routine uses which may be made of the information, and the effects on the individual, if any, of not providing all or any part of the requested information.

**5 U.S.C. 552a(e)(4)(I), Categories of Sources of Records**

The FBI also received a comment concerning exemption of the requirement to disclose sources of records contained in the NGI System. Despite claiming this exemption, the FBI has published in the NGI SORN the categories of sources of records to the extent that such disclosure would not compromise confidential sources or the safety of witnesses. However, to the extent such additional details would be required, it is believed that such detail may interfere with the Department's law enforcement functions and the responsibilities of the FBI. The FBI claims the exemption to (e)(4)(I) because greater specificity than was provided in the NGI SORN cannot be disclosed without compromising confidential sources or the safety of witnesses.

**5 U.S.C. 552a(e)(5), Accurate, Relevant, Timely, and Complete**

The comments also expressed concerns regarding the NGI System's exemption from the (e)(5) requirements to maintain accurate, relevant, timely, and complete records. When collecting information for authorized law enforcement purposes, it is not always possible to determine in advance what information is accurate, relevant, timely, or complete. With time, additional facts, and analysis, information may acquire new significance. Although the FBI has claimed this exemption, it continuously works with its federal, state, local, tribal, and international law enforcement partners to maintain the accuracy of records to the greatest extent possible. The FBI does so with established policies and practices that include the review, audit, and validation of records, and formal agreements with partner agencies that require regular records updates. The law enforcement and national security communities have a strong operational interest in using up-to-date and accurate records and will foster relationships with partners to further this interest. If alterations are made to criminal record sources outside the FBI, we encourage subject individuals to bring said documentation to the FBI's attention to ensure timely modification of an NGI System record.

**General Comments on the NGI System**

A few commenters expressed concerns about the safety and security of the system. It should be noted that the FBI is not and cannot claim exemption from 5 U.S.C. 552a(e)(10), which requires agencies to establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity. In compliance with this provision of the Privacy Act and other security mandates, the NGI System has been developed and implemented in compliance with all federal information technology standards designed to safeguard personal information from loss, destruction, or unauthorized access.

Many commenters communicated concerns about the NGI System being used to track the expression of First Amendment rights. The NGI System is a biometric database. It is not utilized to conduct surveillance or track the expression of a citizen's First Amendment rights. It should be noted that the FBI is not and cannot claim exemption from 5 U.S.C. 552a(e)(7), which, absent specific authorization or consent, prohibits the maintenance of records describing how any individual exercises rights guaranteed by the First Amendment.

The FBI is not exempting the NGI System from all provisions of the Privacy Act. The protections of many of the provisions of the Privacy Act and the E-Government Act of 2002 are still in place; only the named Privacy Act exemptions have been claimed, if needed, to protect sensitive law enforcement and national security operations.

Overall, the FBI has made only minor, administrative edits to the rule as originally proposed to ensure accuracy and consistency with the listed authorities and other subsections of 28 CFR part 16. The FBI has made no substantive changes to the rule as it was originally proposed. For the reasons identified in this publication, the Department and the FBI are issuing this final rule.

**List of Subjects in 28 CFR Part 16**

Administrative practices and procedures, Courts, Freedom of information, Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940–2008, 28 CFR part 16 is amended as follows:

## PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

■ 1. The authority citation for part 16 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 553; 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717.

### Subpart E—Exemption of Records Systems Under the Privacy Act

■ 2. Amend § 16.96 by revising paragraphs (e) and (f) to read as follows:

**§ 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.**

* * * * *

(e) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2) and (3); (e)(4)(G), (H) and (I); (e)(5) and (8); (f) and (g):

(1) The Next Generation Identification (NGI) System (JUSTICE/FBI–009).

(2) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) or (k). Where compliance would not appear to interfere with or adversely affect the purpose of this system to detect, deter, and prosecute crimes and to protect the national security, the applicable exemption may be waived by the FBI in its sole discretion.

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3), the requirement that an accounting be made available to the named subject of a record, because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning the subject would specifically reveal investigative interest by the FBI or agencies that are recipients of the disclosures. Revealing this information could compromise ongoing, authorized law enforcement and national security efforts and may provide the record subject with the opportunity to evade or impede the investigation.

(2) From subsection (c)(4) notification requirements because this system is exempt from the access and amendment provisions of subsection (d) as well as the accounting of disclosures provision of subsection (c)(3). The FBI takes seriously its obligation to maintain accurate records despite its assertion of this exemption, and to the extent it, in its sole discretion, agrees to permit amendment or correction of FBI records, it will share that information in appropriate cases.

(3) From subsection (d) (1), (2), (3) and (4), (e)(4)(G) and (H), (e)(8), (f) and (g) because these provisions concern individual access to and amendment of law enforcement records and compliance and could alert the subject of an authorized law enforcement activity about that particular activity and the interest of the FBI and/or other law enforcement agencies. Providing access could compromise sensitive law enforcement information, disclose information that would constitute an unwarranted invasion of another's personal privacy, reveal a sensitive investigative technique, provide information that would allow a subject to avoid detection or apprehension, or constitute a potential danger to the health or safety of law enforcement personnel, confidential sources, or witnesses. Also, an alternate system of access has been provided in 28 CFR 16.30 through 16.34, and 28 CFR 20.34, for record subjects to obtain a copy of their criminal history records. However, the vast majority of criminal history records concern local arrests for which it would be inappropriate for the FBI to undertake correction or amendment.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for law enforcement purposes. The relevance and utility of certain information may not always be evident until and unless it is vetted and matched with other sources of information that are necessarily and lawfully maintained by the FBI. Most records in this system are acquired from state and local law enforcement agencies and it is not possible for the FBI to review that information as relevant and necessary.

(5) From subsection (e)(2) and (3) because application of this provision could present a serious impediment to the FBI's responsibilities to detect, deter, and prosecute crimes and to protect the national security. Application of these provisions would put the subject of an investigation on notice of that fact and allow the subject an opportunity to engage in conduct intended to impede that activity or avoid apprehension. Also, the majority of criminal history records and associated biometrics in this system are collected by state and local agencies at the time of arrest; therefore it is not feasible for the FBI to collect directly from the individual or to provide notice. Those persons who voluntarily submit fingerprints into this system pursuant to state and federal statutes for licensing, employment, and similar civil purposes receive an (e)(3) notice.

(6) From subsection (e)(4)(I), to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than has been published in the **Federal Register**. Should the subsection be so interpreted, exemption from this provision is necessary to protect the sources of law enforcement information and to protect the privacy and safety of witnesses and informants and others who provide information to the FBI.

(7) From subsection (e)(5) because in the collection of information for authorized law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With time, seemingly irrelevant or untimely information may acquire new significance when new details are brought to light. Additionally, the information may aid in establishing patterns of activity and providing criminal leads. Most records in this system are acquired from state and local law enforcement agencies and it would be impossible for the FBI to vouch for the compliance of these agencies with this provision. The FBI does communicate to these agencies the need for accurate and timely criminal history records, including criminal dispositions.

* * * * *

Dated: July 13, 2017.

**Peter A. Winn,**

*Acting Chief Privacy and Civil Liberties Officer, Department of Justice.*

[FR Doc. 2017–15423 Filed 7–31–17; 8:45 am]

BILLING CODE 4410–02–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 100

**[Docket No. USCG–2017–0673]**

## Special Local Regulations; SUP3Rivers the Southside Outside, Pittsburgh, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce a special local regulation for navigable waters of the Allegheny and Monongahela Rivers during the SUP3Rivers the Southside Outside event. This regulation is needed to provide for the safety of life during the marine event. During the enforcement period, entry into this regulated area is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

**DATES:** The regulations in 33 CFR 100.801, Table 1, Sector Ohio Valley, line 29, will be enforced from 6:30 a.m. through 11:30 a.m. on September 2, 2017.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone

412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce a special local regulation for the annual SUP3Rivers the Southside Outside event listed in 33 CFR 100.801, Table 1, line 29, from 6:30 a.m. through 11:30 a.m. on September 2, 2017. Entry into the regulated area is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the area must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 100.801 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

Dated: July 25, 2017.

**L. McClain, Jr.,**

*Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.*

[FR Doc. 2017–16151 Filed 7–31–17; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2017–0517]**

## Drawbridge Operation Regulation; Thames River, New London, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation; modification.

**SUMMARY:** The Coast Guard has modified a temporary deviation from the operating schedule that governs the Amtrak Bridge across Thames River, mile 3.0, at New London, CT. This action is necessary to complete installation of an emergency generator. This modified deviation allows the bridge to require a two hour advance notice for openings during nighttime hours.

**DATES:** The modified deviation published on June 23, 2017 (82 FR 28552) is effective from August 1, 2017 through 12:01 a.m. on September 30, 2017. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on July 31, 2017 until August 1, 2017.

**ADDRESSES:** The docket for this deviation, [USCG–2017–0517] 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 James L. Rousseau, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 617–223–8619, email *James.L.Rousseau2@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** On June 23, 2017, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; Thames River, New London, CT'' in the **Federal Register** (82 FR 28552). Under that temporary deviation, between July 31, 2017 and September 12, 2017, the draw of the Amtrak Bridge would require a two hour advance notice for openings during nighttime hours.

Amtrak, the owner of the bridge, requested a modification of the currently published deviation in order to facilitate installation of a lift span emergency generator. Due to delays in manufacturing Amtrak has requested that the temporary deviation be modified to allow the Amtrak Bridge to require a 2 hour advance notice between 9 p.m. and 7 a.m. from July 31, 2017 to September 30, 2017, while a crane barge is present next to the lift span. The presence of the crane barge reduces the horizontal clearance to 70 feet. Additionally, between July 31, 2017 and September 10, 2017, the lift span will be in the down position during daytime hours but will be able to open when requested.

The Amtrak Bridge across the Thames River, mile 3.0 at New London, Connecticut has a horizontal clearance of 150 feet and a vertical clearance of 29 feet at mean high water and 31 feet at mean low water in the closed position. The bridge has a vertical clearance of 75 feet in the intermediate raised position and 135 feet in the fully open position at mean high water. The existing drawbridge operating regulations are listed at 33 CFR 117.224. The waterway is transited by recreational traffic, commercial vessels, ferries, and military vessels. Vessels that can pass under the bridge without an opening may do so at all times. When the barge is located next to the lift span, the bridge will not be able to open immediately for emergencies. There is no alternate route for vessels unable to pass through the bridge when in the closed position.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by this 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: July 26, 2017.

**Christopher. J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2017–16084 Filed 7–31–17; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2015–1088]**

**RIN 1625–AA00**

## Safety Zone; Pleasure Beach Piers, Bridgeport, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of Pleasure Beach, Bridgeport, CT for the Pleasure Beach Piers. This temporary final rule is necessary to provide for the safety of life on navigable waters. Entry into, transit through, mooring, or anchoring within the safety zone is prohibited unless authorized by Captain of the Port (COTP) Long Island Sound.

**DATES:** This rule is effective without actual notice from August 1, 2017 until June 30, 2018. For the purposes of enforcement, actual notice will be used from July 1, 2017 until August 1, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–1088 and USCG–2015–1123 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Petty Officer Katherine Linnick,

Prevention Department, U.S. Coast Guard Sector Long Island Sound, telephone (203) 468–4565, email *Katherine.E.Linnick@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LIS Long Island Sound
NPRM Notice of Proposed Rulemaking
NAD83 North American Datum 1983

## II. Background Information and Regulatory History

This rulemaking establishes a safety zone for the waters around the Pleasure Beach Piers, Bridgeport, CT. Corresponding regulatory history is discussed below.

The Coast Guard was made aware on December 9, 2015, of damage to Pleasure Beach Bridge, the result of which created a hazard to navigation. On December 22, 2015, the Coast Guard published a temporary final rule entitled, ''Safety Zone; Pleasure Beach Bridge, Bridgeport, CT'' in the **Federal Register** (80 FR 79480). On June 23, 2016, the Coast Guard published a second temporary final rule entitled, ''Safety Zone; Pleasure Beach Bridge, Bridgeport, CT'' in the **Federal Register** (81 FR 40814). On July 25, 2016, the Coast Guard published a third temporary final rule entitled, ''Safety Zone; Pleasure Beach Bridge, Bridgeport, CT'' in the **Federal Register** (81 FR 48329). On January 19, 2017, the Coast Guard published a fourth temporary final rule entitled, ''Safety Zone; Pleasure Beach Bridge, Bridgeport, CT'' in the **Federal Register** (82 FR 6250).

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. A solution to remedy the safety hazards associated with this structure was initially projected to be completed prior to the expiration of the current safety zone, but has been delayed. It would be impracticable and contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety of waterway users.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

## III. Legal Authority and Need for Rule

The legal basis for this temporary rule is 33 U.S.C. 1231.

On December 9, 2015, the Coast Guard was made aware of damage sustained to Pleasure Beach Bridge, Bridgeport, CT that has created a hazard to navigation. After further analysis of the bridge structure, the Coast Guard concluded that the overall condition of the structure restricts, endangers, and interferes with navigation. The COTP LIS has determined that the safety zone established by this temporary final rule is necessary to provide for the safety of life on navigable waterways.

## IV. Discussion of the Rule

The safety zone established by this rule will cover all navigable waters of the entrance channel to Johnsons Creek in the vicinity of the Pleasure Beach Piers, Bridgeport, CT. This safety zone will be bound inside an area that starts at a point on land at position 41–10.2 N., 073–10.7 W. and then east along the shoreline to a point on land at position 41–9.57 N., 073–9.54 W. and then south across the channel to a point on land at position 41–9.52 N., 073–9.58 W. and then west along the shoreline to a point on land at position 41–9.52 N., 073–10.5 W. and then north across the channel back to the point of origin.

This rule prohibits vessels from entering, transiting, mooring, or anchoring within the area specifically designated as a safety zone unless authorized by the COTP or designated representative.

The Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners and Broadcast Notice to Mariners.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: (1) Persons or vessels desiring to enter the safety zone may do so with permission from the COTP LIS or a designated representative; and (2) the Coast Guard will notify the public of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of this safety zone.

### *B. Impact on Small Entities*

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This temporary rule involves the establishment of a safety zone of limited duration. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) for Categorically Excluded Actions will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

*G. Protest Activities*

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

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–1088 to read as follows:

### § 165.T01–1088 Safety Zone; Pleasure Beach Piers, Bridgeport, CT.

(a) *Location.* The following area is a safety zone: All navigable waters of the entrance channel to Johnsons Creek in the vicinity of the Pleasure Beach Piers, Bridgeport, CT bound inside an area that starts at a point on land at position 41°10′02.964″ N., 073°10′08.148″ W. and then east along the shoreline to a point on land at position 41°09′57.996″ N., 073°09′54.324″ W. and then south across the channel to a point on land at position 41°09′52.524″ N., 073°09′58.861″ W. and then west along the shoreline to a point on land at position 41°09′52.776″ N., 073°10′04.944″ W. and then north across the channel back to the point of origin.

(b) *Enforcement period.* This rule will be enforced from 12 a.m. on July 1, 2017 to 12 a.m. June 30, 2018.

(c) *Definitions.* The following definitions apply to this section: A ''designated representative'' is any commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP) Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. ''Official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within this zone is prohibited unless authorized by the COTP Long Island Sound.

(3) Operators desiring to enter or operate within the safety zone should contact the COTP Long Island Sound at 203–468–4401 (Coast Guard Sector Long Island Sound Command Center) or the designated representative via VHF channel 16 to obtain permission to do so.

(4) Any vessel given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Long Island Sound, or the designated on-scene representative.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

Dated: June 30, 2017.

**K.B. Reed,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Long Island Sound.*

[FR Doc. 2017–16165 Filed 7–31–17; 8:45 am]

BILLING CODE 9110–04–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

**[MB Docket No. 16–126; FCC 17–73]**

### Declaratory Ruling That Cable Operators May Provide Notice by Email

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; declaratory ruling.

**SUMMARY:** In this Declaratory Ruling, the Commission clarifies that cable operators may provide required written information to subscribers by email to a verified email address and must include a telephone number for subscribers to opt out of email notification at any time and choose to continue to receive paper copies of the notices.

**DATES:** Applicable August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Katie Costello of the Policy Division, Media Bureau at (202) 418–2233 or *Katie.Costello@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Declaratory Ruling, dated June 16, 2017, released June 21, 2017, FCC 17–73, MB Docket No. 16–126. The full text of the Declaratory ruling is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://apps.fcc.gov/ecfs/*. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

#### Synopsis

The Commission issued a Declaratory Ruling, FCC 17–73, on June 21, 2017 that clarifies that cable operators may provide the written notices required by 47 CFR 76.1602(b) via email to a verified email address and must include a telephone number for customers to opt out of email notification at any time and choose to receive paper copies of the notices. The Commission's rule, 47 CFR 76.1602(b), requires cable operators to provide their subscribers with written information that includes the types of products and services offered, the prices for each service, and installation and service maintenance policies. The National Cable & Telecommunications Association and the American Cable Association filed a Petition for Declaratory Ruling with the Commission requesting that the Commission clarify that the notices may be delivered to customers via email. The Media Bureau published a Public Notice seeking comment on the Petition in the **Federal Register**, 81 FR 24050–01 (April 25, 2016). Permitting cable operators to comply with section 76.1602(b) by delivering the required information via email falls squarely within the language of the rule. It is reasonable to interpret the term ''written information'' in section 76.1602(b) to include information delivered by email. The benefits of permitting email delivery include the positive environmental aspects of saving substantial amounts of paper annually, increased efficiency and enabling customers to more readily access accurate information regarding their service options. This clarification is consistent with other Commission actions permitting electronic records in lieu of paper records.

Electronic delivery of notices will ease the regulatory burden for all cable operators, including small cable operators. In this Declaratory Ruling, a verified email address is defined as (1) an email address that the customer has provided to the cable operator (and not vice versa) for purposes of receiving communication, (2) an email address that the customer regularly uses to communicate with the cable operator, or (3) an email address that has been confirmed by the customer as an appropriate vehicle for the delivery of notices. Use of a verified email address will ensure that the notices have a high probability of being successfully delivered electronically to an email address that the customer uses, so that the written information is actually provided to the customer. If no verified email contact information is available for a customer, cable operators must continue to deliver the notices by paper copies. Customers must ''be informed that they may request and receive a paper version of their section 76.1602(b) notices'' instead of email delivery. This option will afford customers the opportunity to opt out of email notification at any time and choose to continue to receive paper copies of the notices. Cable operators must include an opt-out telephone number that is clearly and prominently presented to customers in the body of the originating email that delivers the notices, so that it is readily identifiable as an opt-out option. For the reasons stated above, it is ordered, pursuant to section 632 of the Communications Act of 1934, as amended, 47 U.S.C. 552, and sections 1.2 and 76.1602 of the Commission's rules, 47 CFR 1.2, 76.1602, that the Petition for Declaratory Ruling filed by the National Cable & Telecommunications Association and the American Cable Association is granted to the extent indicated herein and is otherwise denied. It is further ordered that this Declaratory Ruling shall be effective upon the date specified in a notice published in the **Federal Register** announcing Office of Management and Budget approval of the information collection requirements pursuant to the Paperwork Reduction Act. The Office of Management and Budget approved this non-substantive change to the information collection for 47 CFR 76.1602(b) on July 20, 2017.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2017–16075 Filed 7–31–17; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 161222999–7618–02]**

**RIN 0648–BG56**

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 5

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement management measures described in Framework Amendment 5 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP), as prepared and submitted jointly by the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council (Councils). This final rule removes the restriction on fishing for, or retaining the recreational bag and possession limits of, king and Spanish mackerel on

a vessel with a Federal commercial permit for king or Spanish mackerel when commercial harvest of king or Spanish mackerel in a zone or region is closed. With implementation of this rule, persons aboard commercial vessels may fish for and retain the recreational bag and possession limits of king or Spanish mackerel during the open recreational season, even if commercial fishing for those species is closed. The purpose of this final rule is to remove Federal permit restrictions unique to commercially permitted king and Spanish mackerel vessels and to standardize vessel permit restrictions applicable after a commercial quota closure of king or Spanish mackerel in accordance with restrictions in other fisheries.

**DATES:** This final rule is effective August 31, 2017.

**ADDRESSES:** Electronic copies of Framework Amendment 5 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/2017/framework_am5/index.html.* Framework Amendment 5 includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, NMFS, telephone: 727–824–5305, or email: *rich.malinowski@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The coastal migratory pelagic fishery of the Gulf of Mexico (Gulf) and Atlantic regions is managed under the FMP and includes the management of the Gulf and Atlantic migratory groups of king mackerel, Spanish mackerel, and cobia. The FMP was prepared jointly by the Councils and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*). Framework Amendment 5 and this final rule apply to the harvest of king and Spanish mackerel in the exclusive economic zone (EEZ) of the Gulf and Atlantic regions.

On March 1, 2017, NMFS published a proposed rule to implement Framework Amendment 5 and requested public comment (82 FR 12187). The proposed rule and Framework Amendment 5 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Framework Amendment 5 and implemented by this final rule is provided below.

**Management Measure Contained in This Final Rule**

As a result of this final rule, persons aboard vessels with a Federal commercial permit for king or Spanish mackerel may fish for and retain the recreational bag and possession limits of these species during the open recreational season when the commercial season for those species is closed. This final rule removes Federal permit restrictions unique to commercially permitted king and Spanish mackerel vessels and standardizes vessel permit restrictions applicable after a commercial quota closure of king or Spanish mackerel in accordance with the restrictions in other fisheries. In addition, to improve clarity, this final rule makes non-substantive changes to the language in § 622.384(e)(3), renumbered as § 622.384(e)(2), and to § 622.386. Finally, the language aligns with changes to the regulations set forth in the final rule for Amendment 26 to the FMP (82 FR 17387, April 11, 2017), which included revisions to terminology and to the management boundaries for the Gulf of Mexico and Atlantic migratory groups of king mackerel.

**Comments and Responses**

NMFS received a total of eighteen comments on the proposed rule for Framework Amendment 5 from commercial and recreational fishers. Nine of the comments were in favor of the amendment and the proposed rule, while six were opposed. Three additional comments were submitted that were not related to the proposed action; because those comments were outside of the scope of the actions considered for Framework Amendment 5 and the proposed rule, NMFS is not providing specific responses to those comments in this final rule. The six comments opposed to the amendment expressed concern about relative fishing opportunities for the commercial versus the recreational sectors and about how the final rule might affect future recreational harvest.

Additionally, several commenters (both in support of and not in support of the proposed action) expressed views that reflect a misunderstanding of both current king and Spanish mackerel Federal management and the effect of the rule. In particular, the comments reflected a misunderstanding of whether and when those aboard commercially permitted vessels that also hold a charter or headboat permit will be allowed to retain the recreational bag and possession limits of king or Spanish mackerel. In fact, the final rule does not alter the current ability of persons aboard dual-permitted vessels to fish for and retain the recreational bag and possession limits of the species when the commercial season is closed. Instead, this final rule changes the regulations to allow those aboard commercially permitted vessels for king and Spanish mackerel to fish for and retain the recreational bag and possession limits of the species when the commercial season for those species is closed, regardless of the capacity in which the vessel is operating (*i.e.,* the vessels no longer need to be dual-permitted and operating in a for-hire capacity). With implementation of this rule, persons aboard commercial vessels fishing for king and Spanish mackerel and persons aboard dual-permitted vessels on for-hire trips for king and Spanish mackerel may retain the recreational bag and possession limits of king and Spanish mackerel, as long as the recreational season for those species is open, even if commercial fishing for those species is closed. In addition, nothing in this rule prevents persons aboard commercial vessels that hold multiple commercial permits from fishing for and retaining the recreational bag and possession limits of king and Spanish mackerel during the closed commercial season for king and Spanish mackerel while on a commercial trip for other species, such as snapper-grouper, as long as such fishing is consistent with the Federal commercial permit for each of those other species.

Specific comments related to the action and proposed rule, as well as NMFS' respective responses, are summarized below.

*Comment 1:* Allowing persons aboard commercial vessels to fish for king and Spanish mackerel recreationally could result in more fish being caught, which could result in additional regulation of the recreational sector.

*Response:* As described in Framework Amendment 5, the recreational and/or stock ACLs for these species have rarely been exceeded in recent years, and thus the accountability measures have not been triggered frequently. We do not expect a significant increase in recreational landings in light of the additional means of access to recreational harvest allowed in this rule. Any effect from this final rule on recreational landings would likely be minimal, and therefore unlikely to require new recreational management measures.

*Comment 2:* This final rule will allow recreationally caught fish to be sold by commercially permitted vessels when the commercial season is closed.

*Response:* The final rule allows commercial fishers with a Federal commercial permit for king or Spanish mackerel to use their permitted vessels to fish for these species and retain the recreational bag and possession limits outside of the commercial seasons for those species. However, under the regulations already in place, the sale or purchase of king or Spanish mackerel taken under the recreational bag and possession limits is prohibited when the commercial season is closed. Thus any fish taken in the circumstances allowed under the rule cannot be sold or purchased.

*Comment 3:* Additional king mackerel population information is needed to avoid ecological or economic problems in the Gulf and Atlantic before approving these changes to management.

*Response:* As part of the development of Framework Amendment 5, NMFS and the Councils carried out an analysis of the expected physical, biological, economic, social, and administrative effects of this action. This analysis incorporated data from the September 2014 Southeast Data, Assessment, and Review (SEDAR) 38 stock assessment, which determined that both the Gulf and Atlantic migratory groups of king mackerel are not overfished and are not undergoing overfishing. As explained in Framework Amendment 5, the additional amount of king mackerel that would be harvested as a result of this final rule is not quantifiable because the number of persons aboard commercially permitted vessels who would fish for and retain the recreational bag and possession limits of king and Spanish mackerel once the harvest restriction is removed and the number of days during which they could fish under the recreational bag and possession limits are not known. However, NMFS' analysis demonstrates, and the Councils agree, that minimal impacts to the ecology or economy would be expected as a result of this final rule. The next SEDAR assessment will be completed in the summer of 2018.

## Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with Framework Amendment 5, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this final rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No public comments were received on the proposed rule regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis was not required and none has been prepared.

## List of Subjects in 50 CFR Part 622

Commercial, Recreational, Fisheries, Fishing, Gulf of Mexico, South Atlantic, King Mackerel, Spanish Mackerel.

Dated: July 26, 2017.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.379, revise the last sentence in paragraph (a) to read as follows:

### § 622.379 Incidental catch allowances.

(a) * * * Incidentally caught king or Spanish mackerel are counted toward the quotas provided for under § 622.384 and are subject to the prohibition of sale under § 622.384(e)(2).

* * * * *

■ 3. In § 622.384, revise paragraph (e) to read as follows:

### § 622.384 Quotas.

* * * * *

(e) *Restrictions applicable after a quota closure.* (1) If the recreational sector for the applicable species, migratory group, zone, or gear is open, the bag and possession limits for king and Spanish mackerel specified in § 622.382(a) apply to all harvest or possession for the closed species, migratory group, zone, or gear in or from the EEZ. If the recreational sector for the applicable species, migratory group, zone, or gear is closed, all applicable harvest or possession in or from the EEZ is prohibited.

(2) The sale or purchase of king mackerel, Spanish mackerel, or cobia of the closed species, migratory group, zone, or gear type is prohibited, including any king or Spanish mackerel taken under the bag and possession limits specified in § 622.382(a), or cobia taken under the limited-harvest species possession limit specified in § 622.383(b). The prohibition on the sale or purchase during a closure for coastal migratory pelagic fish does not apply to coastal migratory pelagic fish that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

■ 4. In § 622.386, revise the introductory text to read as follows:

### § 622.386 Restrictions on sale/purchase.

The restrictions in this section are in addition to the restrictions on the sale or purchase related to commercial quota closures as specified in § 622.384(e)(2).

* * * * *

[FR Doc. 2017–16134 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[Docket No. 170104014–7683–02]**

**RIN 0648–BG53**

## Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Framework Adjustment 56

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

**ACTION:** Final rule.

**SUMMARY:** This action partially approves and implements Framework Adjustment 56 to the Northeast Multispecies Fishery Management Plan. This rule sets catch limits for 4 of the 20 groundfish stocks, adjusts several allocations and accountability measures for groundfish catch in groundfish and non-groundfish fisheries, and makes other administrative changes to groundfish management measures. This action is

necessary to respond to updated scientific information and achieve the goals and objectives of the Fishery Management Plan. The final measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Effective on August 1, 2017.

**ADDRESSES:** Copies of Framework Adjustment 56, including the Environmental Assessment and the Regulatory Impact Review prepared by the New England Fishery Management Council (NEFMC) in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: *http://www.nefmc.org/management-plans/northeast-multispecies* or *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies.*

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, phone: 978–281–9195; email: *Aja.Szumylo@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

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## 1. Summary of Approved Measures

This action partially approves the management measures in Framework Adjustment 56 to the Northeast Multispecies Fishery Management Plan (FMP). The measures implemented in this final rule include:

- 2017 quotas for three shared U.S./Canada stocks (Eastern Georges Bank (GB) cod, Eastern GB haddock, and GB yellowtail flounder);
- 2017–2019 catch limits for witch flounder;
- An allocation of northern windowpane flounder for the scallop fishery;
- A revised trigger for the scallop fishery's accountability measures for GB yellowtail flounder and northern windowpane flounder; and
- An increase in the GB haddock allocation for the midwater trawl fishery.

This action also implements a number of other measures that are not part of Framework 56, but that were considered under Regional Administrator authority included in the Northeast Multispecies FMP. We are including these measures in Framework 56 for expediency purposes, and because these measures are related to the catch limits implemented in Framework 56. The additional measures implemented in this action are listed below.

- *Management measures necessary to implement sector operations plans*—This action revises annual catch entitlements for 19 sectors for fishing year 2017 based on the catch limits in Framework 56 and final fishing year 2017 sector rosters.
- *Management measures for the common pool fishery*—This action adjusts the fishing year 2017 trip limits for witch flounder and American plaice for the common pool fishery, consistent with the final 2017 catch limit for witch flounder in Framework 56.
- *2017 accountability measures for windowpane flounder*—This action announces accountability measures (AMs) for northern and southern windowpane flounder that are triggered due to overages of fishing year 2015 catch limits for both stocks. The large AM areas for both northern and southern windowpane flounder will be in effect for groundfish trawl vessels from August 1, 2017, through August 31, 2017. The large AM areas for southern windowpane flounder will be in effect for non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12.7 cm) and greater until April 30, 2018, unless we remove the AM for these vessels through a subsequent action.

## 2. Disapproved Measure—Status Determination Criteria for Witch Flounder

The Northeast Fisheries Science Center conducted a witch flounder benchmark assessment in 2016. The final report for the benchmark assessment is available on the NEFSC Web site: *http://www.nefsc.noaa.gov/publications/crd/crd1703/.* The assessment results are discussed in detail in the proposed rule for this action, and are not repeated here. In summary, the peer review panel rejected the 2016 benchmark assessment model for witch flounder, and recommended that neither the 2016 benchmark assessment, nor the previous 2008 benchmark assessment, should be used as a basis for determining witch flounder stock status. Given the lack of an assessment model, the peer review panel recommended an alternative approach to generate catch advice that uses swept-area biomass estimates generated from the NMFS Trawl Surveys. The panel did not have sufficient time to fully review the swept-area biomass approach in the context of the assessment terms of reference, which include the update or redefinition of status determination criteria (SDCs) or proxies.

We approved the existing SDCs for witch flounder in Amendment 16 to the Northeast Multispecies FMP (75 FR 18261; April 9, 2010). The existing criteria state that the witch flounder stock is subject to overfishing if the fishing mortality rate (F) is above the F at 40 percent of maximum spawning potential. The witch flounder stock is overfished if spawning stock biomass falls below ½ of the target, which is also calculated using F at 40 percent of maximum spawning potential. This definition was based on the benchmark assessments reviewed during the 2008 Groundfish Assessment Review Meeting (GARM III), and is the same as the SDCs currently in place for most of the groundfish stocks with age-based assessments.

The Council relied on the advice from the assessment peer review panel and its Scientific and Statistical Committee (SSC) to recommend changing the status determination criteria for witch flounder to unknown. The National Standard Guidelines require each FMP to specify objective and measurable SDCs that enable us to monitor stock status. When data are unavailable to specify SDCs based on maximum sustainable yield (MSY) or MSY proxies, the Council and NMFS may use alternative approaches to monitor stock status. As a result, we are disapproving the Council's proposal to change the SDCs to unknown. In the absence of new alternative SDCs following the 2016 benchmark assessment, we intend to maintain the existing criteria until we and the Council are able to generate SDCs based on the swept-area biomass approach or any other alternative approaches. We acknowledge that the existing SDCs are based on a now rejected stock assessment model and recognize that it is critical to work to replace the SDCs.

There is currently a rebuilding plan in place for witch flounder that has an end date of 2017. Prior to the 2016 assessment, and based on the results of the 2015 assessment update, which found that 2014 spawning stock biomass was at 22 percent of the biomass target and that the stock was not expected to reach the 2017 rebuilding target even in the absence of fishing mortality, we anticipated that we would need to notify the Council that it was necessary to revise the rebuilding plan. Although a quantitative status determination relative to the 2016 benchmark assessment results is not possible, there are indications that the stock is still in poor condition, and will continue to need conservative management measures to promote stock growth. We are finalizing our guidance regarding any necessary adjustments to the rebuilding plan and will advise the Council on the next steps prior to the fall 2017 groundfish assessment updates. Additionally, when the stock assessment for witch flounder can provide biomass estimates, these estimates can be used to evaluate progress towards the rebuilding targets.

**3. Fishing Year 2017 Shared U.S./Canada Quotas**

*Management of Transboundary Georges Bank Stocks*

As described in the proposed rule, eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. This action adopts shared U.S./Canada quotas for these stocks for fishing year 2017 based on 2016 assessments and the recommendations of the Transboundary Management Guidance Committee (TMGC) (Table 1). For a more detailed discussion of the TMGC's 2017 catch advice, see the TMGC's guidance document under the ''Resources'' tab at: *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html.*

TABLE 1—FISHING YEAR 2017 U.S./CANADA QUOTAS (mt, LIVE WEIGHT) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

| Quota | Eastern GB cod | Eastern GB haddock | GB yellowtail flounder |
|---|---|---|---|
| Total Shared Quota | 730 | 50,000 | 300 |
| U.S. Quota | 146 (20%) | 29,500 (59%) | 207 (69%) |
| Canada Quota | 584 (80%) | 20,500 (41%) | 93 (31%) |

The regulations implementing the U.S./Canada Resource Sharing Understanding require that any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder be deducted from the U.S. quota in the following fishing year. If catch information for fishing year 2016 indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for fishing year 2017 in a future management action, as soon as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would only be applied to that fishery's allocation in the following fishing year. This ensures that catch by one component of the fishery does not negatively affect another component of the fishery.

**4. Catch Limits for Fishing Years 2017–2019**

*Summary of the Catch Limits*

Last year, Framework 55 (81 FR 26412; May 2, 2016) adopted fishing year 2016–2018 catch limits for all groundfish stocks, except for the U.S./Canada stocks, which are set annually. This rule adopts fishing year 2017–2019 catch limits for witch flounder based on the recent stock assessment and consistent with the recommendations of the Council's SSC. This rule also adopts 2017 shared U.S./Canada quotas (see section ''3. Fishing Year 2017 Shared U.S./Canada Quotas''). With the exception of GB cod, GB haddock, GB yellowtail flounder, and witch flounder, the catch limits included in this action are the same as or similar to those previously implemented in Framework 55, and became effective on May 1, 2017. There are changes to the northern windowpane flounder catch limits related to the allocation of northern windowpane flounder to the scallop fishery (see section ''5. Allocation of Northern Windowpane Flounder to the Scallop Fishery''). There are also minor changes to the catch limits for GB winter flounder and white hake due to revised estimates of Canadian catch. The catch limits implemented in this action, including overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs), can be found in Tables 2 through 9. A summary of how these catch limits were developed, including the distribution to the various fishery components, was provided in the proposed rule and in Appendix II of the Environmental Assessment for Framework 56, and is not repeated here. The sector and common pool sub-ACLs implemented in this action are based on fishing year 2017 potential sector contributions (PSCs) and final fishing year 2017 sector rosters. Sector-specific allocations are in section ''8. Sector Measures for Fishing Year 2017.''

Closed Area I Hook Gear Haddock Special Access Program

Overall fishing effort by both common pool and sector vessels in the Closed Area I Hook Gear Haddock Special Access Program (SAP) is controlled by an overall Total Allowable Catch (TAC) for GB haddock, which is the target species for this SAP. The maximum amount of GB haddock that may be caught in any fishing year is based on the amount allocated to this SAP for the 2004 fishing year (1,130 mt), and adjusted according to the growth or decline of the western GB haddock biomass in relationship to its size in 2004. Based on this formula, the GB Haddock TAC for this SAP is 10,709 mt for the 2017 fishing year. Once this overall TAC is caught, the Closed Area I Hook Gear Haddock SAP will be closed to all groundfish vessels for the remainder of the fishing year.

TABLE 2—FISHING YEARS 2017–2019 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES

[mt, live weight]

| Stock | 2017 | | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|---|
| | OFL | Total ABC | U.S. ABC | OFL | U.S. ABC | OFL | U.S. ABC |
| GB Cod | 1,665 | 1,249 | 665 | 1,665 | 1,249 | | |
| GOM Cod | 667 | 500 | 500 | 667 | 500 | | |
| GB Haddock | 258,691 | 77,898 | 57,398 | 358,077 | 77,898 | | |
| GOM Haddock | 5,873 | 4,534 | 4,534 | 6,218 | 4,815 | | |
| GB Yellowtail Flounder | Unknown | 300 | 207 | Unknown | 354 | | |
| SNE/MA Yellowtail Flounder. | Unknown | 267 | 267 | Unknown | 267 | | |
| CC/GOM Yellowtail Flounder. | 707 | 427 | 427 | 900 | 427 | | |
| American Plaice | 1,748 | 1,336 | 1,336 | 1,840 | 1,404 | | |
| Witch Flounder | Unknown | 878 | 878 | Unknown | 878 | Unknown | 878 |
| GB Winter Flounder | 1,056 | 755 | 702 | 1,459 | 702 | | |
| GOM Winter Flounder | 1,080 | 810 | 810 | 1,080 | 810 | | |
| SNE/MA Winter Flounder. | 1,021 | 780 | 780 | 1,587 | 780 | | |
| Redfish | 14,665 | 11,050 | 11,050 | 15,260 | 11,501 | | |
| White Hake | 4,816 | 3,686 | 3,644 | 4,733 | 3,580 | | |
| Pollock | 32,004 | 21,312 | 21,312 | 34,745 | 21,312 | | |
| N. Windowpane Flounder. | 243 | 182 | 182 | 243 | 182 | | |
| S. Windowpane Flounder. | 833 | 623 | 623 | 833 | 623 | | |
| Ocean Pout | 220 | 165 | 165 | 220 | 165 | | |
| Atlantic Halibut | 210 | 158 | 124 | 210 | 124 | | |
| Atlantic Wolffish | 110 | 82 | 82 | 110 | 82 | | |

SNE/MA = Southern New England/Mid-Atlantic; CC = Cape Cod; N = Northern; S = Southern.
**Note:** An empty cell indicates no OFL/ABC is adopted for that year. These catch limits will be set in a future action.

TABLE 3—FISHING YEAR 2017 CATCH LIMITS

[mt, live weight]

[Catch limits are implemented for GB cod, GB haddock, GB yellowtail, and witch flounder. Sub-ACL adjustments are implemented for the midwater trawl fishery for GB haddock, and for the scallop fishery for northern windowpane. All other limits were previously adopted in Framework 55 on May 1, 2016]

| Stock | Total ACL | Total groundfish fishery | Sector | Common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|---|---|---|---|---|---|---|---|---|---|---|
| GB Cod | 637 | 531 | 521 | 10 | | | | | 20 | 86 |
| GOM Cod | 473 | 437 | 271 | 9 | 157 | | | | 27 | 10 |
| GB Haddock | 54,568 | 52,620 | 52,253 | 367 | | 801 | | | 574 | 574 |
| GOM Haddock | 4,285 | 4,177 | 2,985 | 33 | 1,160 | 42 | | | 33 | 33 |
| GB Yellowtail Flounder | 201 | 163 | 160 | 2 | | | 32 | 4 | 0 | 2.1 |
| SNE/MA Yellowtail Flounder | 256 | 187 | 151 | 36 | | | 34 | | 5 | 29 |
| CC/GOM Yellowtail Flounder | 409 | 341 | 326 | 15 | | | | | 43 | 26 |
| American Plaice | 1,272 | 1,218 | 1,196 | 23 | | | | | 27 | 27 |
| Witch Flounder | 839 | 734 | 718 | 16 | | | | | 35 | 70 |
| GB Winter Flounder | 683 | 620 | 615 | 5 | | | | | 0 | 63 |
| GOM Winter Flounder | 776 | 639 | 607 | 32 | | | | | 122 | 16 |
| SNE/MA Winter Flounder | 749 | 585 | 515 | 70 | | | | | 70 | 94 |
| Redfish | 10,514 | 10,183 | 10,126 | 56 | | | | | 111 | 221 |
| White Hake | 3,467 | 3,358 | 3,331 | 27 | | | | | 36 | 73 |
| Pollock | 20,374 | 17,817 | 17,704 | 113 | | | | | 1,279 | 1,279 |
| N. Windowpane Flounder | 170 | 129 | na | 129 | | | 36 | | 2 | 4 |
| S. Windowpane Flounder | 599 | 104 | na | 104 | | | 209 | | 37 | 249 |
| Ocean Pout | 155 | 130 | na | 130 | | | | | 2 | 23 |
| Atlantic Halibut | 119 | 91 | na | 91 | | | | | 25 | 4 |
| Atlantic Wolffish | 77 | 72 | na | 72 | | | | | 1 | 3 |

TABLE 4—FISHING YEAR 2018 CATCH LIMITS

[mt, live weight]

[Catch limits are implemented for GB cod, GB haddock, GB yellowtail, and witch flounder. Sub-ACL adjustments are implemented for the midwater trawl fishery for GB haddock, and for the scallop fishery for northern windowpane. All other limits were previously adopted in Framework 55 on May 1, 2016]

| Stock | Total ACL | Total groundfish fishery | Sector | Common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|---|---|---|---|---|---|---|---|---|---|---|
| GB Cod | 1,197 | 997 | 978 | 18 | | | | | 37 | 162 |

TABLE 4—FISHING YEAR 2018 CATCH LIMITS—Continued

[mt, live weight]

[Catch limits are implemented for GB cod, GB haddock, GB yellowtail, and witch flounder. Sub-ACL adjustments are implemented for the midwater trawl fishery for GB haddock, and for the scallop fishery for northern windowpane. All other limits were previously adopted in Framework 55 on May 1, 2016]

| Stock | Total ACL | Total groundfish fishery | Sector | Common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|---|---|---|---|---|---|---|---|---|---|---|
| GOM Cod | 473 | 437 | 271 | 9 | 157 | | | | 27 | 10 |
| GB Haddock | 74,058 | 71,413 | 70,916 | 497 | | 1,087 | | | 779 | 779 |
| GOM Haddock | 4,550 | 4,436 | 3,169 | 35 | 1,231 | 45 | | | 35 | 35 |
| GB Yellowtail Flounder | 343 | 278 | 274 | 4 | | | 55 | 7 | 0 | 4 |
| SNE/MA Yellowtail Flounder | 256 | 185 | 149 | 36 | | | 37 | | 5 | 29 |
| CC/GOM Yellowtail Flounder | 409 | 341 | 326 | 15 | | | | | 43 | 26 |
| American Plaice | 1,337 | 1,280 | 1,257 | 24 | | | | | 28 | 28 |
| Witch Flounder | 839 | 734 | 718 | 16 | | | | | 35 | 70 |
| GB Winter Flounder | 683 | 620 | 615 | 5 | | | | | 0 | 63 |
| GOM Winter Flounder | 776 | 639 | 607 | 32 | | | | | 122 | 16 |
| SNE/MA Winter Flounder | 749 | 585 | 515 | 70 | | | | | 70 | 94 |
| Redfish | 10,943 | 10,598 | 10,540 | 58 | | | | | 115 | 230 |
| White Hake | 3,406 | 3,299 | 3,273 | 26 | | | | | 36 | 72 |
| Pollock | 20,374 | 17,817 | 17,704 | 113 | | | | | 1,279 | 1,279 |
| N. Windowpane Flounder | 170 | 129 | | 129 | | | 36 | | 2 | 4 |
| S. Windowpane Flounder | 599 | 104 | | 104 | | | 209 | | 37 | 249 |
| Ocean Pout | 155 | 130 | | 130 | | | | | 2 | 23 |
| Atlantic Halibut | 119 | 91 | | 91 | | | | | 25 | 4 |
| Atlantic Wolffish | 77 | 72 | | 72 | | | | | 1 | 3 |

TABLE 5—FISHING YEAR 2019 CATCH LIMITS

[mt, live weight]

| Stock | Total ACL | Total groundfish fishery | Sector | Common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|---|---|---|---|---|---|---|---|---|---|---|
| Witch Flounder | 839 | 734 | 718 | 16 | | | | | 35 | 70 |

TABLE 6—FISHING YEARS 2017–2019 COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES

[mt, live weight]

| Stock | 2017 | | | 2018 | | | 2019 | | |
|---|---|---|---|---|---|---|---|---|---|
| | Trimester 1 | Trimester 2 | Trimester 3 | Trimester 1 | Trimester 2 | Trimester 3 | Trimester 1 | Trimester 2 | Trimester 3 |
| GB Cod | 2.5 | 3.6 | 3.7 | 4.6 | 6.8 | 7.0 | | | |
| GOM Cod | 2.5 | 3.3 | 3.4 | 2.5 | 3.3 | 3.4 | | | |
| GB Haddock | 99.0 | 120.9 | 146.6 | 134.3 | 164.1 | 199.0 | | | |
| GOM Haddock | 8.8 | 8.5 | 15.4 | 9.4 | 9.0 | 16.3 | | | |
| GB Yellowtail Flounder | 0.5 | 0.7 | 1.3 | 0.8 | 1.3 | 2.2 | | | |
| SNE/MA Yellowtail Flounder | 7.6 | 13.4 | 15.2 | 7.5 | 13.2 | 14.9 | | | |
| CC/GOM Yellowtail Flounder | 5.2 | 5.2 | 4.5 | 5.2 | 5.2 | 4.5 | | | |
| American Plaice | 5.5 | 8.2 | 9.1 | 5.7 | 8.6 | 9.6 | | | |
| Witch Flounder | 4.4 | 5.1 | 6.9 | 4.4 | 5.1 | 6.9 | 4.4 | 5.1 | 6.9 |
| GB Winter Flounder | 0.4 | 1.2 | 3.5 | 0.4 | 1.2 | 3.5 | | | |
| GOM Winter Flounder | 11.7 | 12.0 | 7.9 | 11.7 | 12.0 | 7.9 | | | |
| Redfish | 14.0 | 17.4 | 24.7 | 14.6 | 18.1 | 25.7 | | | |
| White Hake | 10.2 | 8.3 | 8.3 | 10.0 | 8.2 | 8.2 | | | |
| Pollock | 31.6 | 39.5 | 41.8 | 31.6 | 39.5 | 41.8 | | | |

**Note.** An empty cell indicates that no catch limit has been set yet for these stocks. These catch limits will be set in a future management action.

TABLE 7—COMMON POOL INCIDENTAL CATCH TACS FOR FISHING YEARS 2017–2019

[mt, live weight]

| Stock | Percentage of common pool sub-ACL | 2017 | 2018 | 2019 |
|---|---|---|---|---|
| GB Cod | 2 | 0.20 | 0.37 | |
| GOM Cod | 1 | 0.09 | 0.09 | |
| GB Yellowtail Flounder | 2 | 0.05 | 0.08 | |
| CC/GOM Yellowtail Flounder | 1 | 0.15 | 0.15 | |
| American Plaice | 5 | 1.14 | 1.19 | |
| Witch Flounder | 5 | 0.82 | 0.82 | 0.82 |
| SNE/MA Winter Flounder | 1 | 0.70 | 0.70 | |

TABLE 8—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

| Stock | Regular B DAS program | Closed Area I hook gear haddock SAP | Eastern US/CA haddock SAP |
|---|---|---|---|
| GB Cod | 50 | 16 | 34 |
| GOM Cod | 100 | ..... | ..... |
| GB Yellowtail Flounder | 50 | ..... | 50 |
| CC/GOM Yellowtail Flounder | 100 | ..... | ..... |
| American Plaice | 100 | ..... | ..... |
| Witch Flounder | 100 | ..... | ..... |
| SNE/MA Winter Flounder | 100 | ..... | ..... |
| White Hake | 100 | ..... | ..... |

DAS = Days-at-Sea

TABLE 9—FISHING YEARS 2017–2019 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM

[mt, live weight]

| Stock | Regular B DAS program | | | Closed Area I hook gear haddock SAP | | | Eastern U.S./Canada haddock SAP | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2017 | 2018 | 2019 | 2017 | 2018 | 2019 | 2017 | 2018 | 2019 |
| GB Cod | 0.10 | 0.18 | ..... | 0.03 | 0.06 | ..... | 0.07 | 0.13 | ..... |
| GOM Cod | 0.09 | 0.09 | ..... | n/a | n/a | ..... | n/a | n/a | ..... |
| GB Yellowtail Flounder | 0.02 | 0.04 | ..... | n/a | n/a | ..... | 0.02 | 0.04 | ..... |
| CC/GOM Yellowtail Flounder | 0.15 | 0.15 | ..... | n/a | n/a | ..... | n/a | n/a | ..... |
| American Plaice | 1.14 | 1.19 | ..... | n/a | n/a | ..... | n/a | n/a | ..... |
| Witch Flounder | 0.82 | 0.82 | 0.82 | n/a | n/a | n/a | n/a | n/a | n/a |
| SNE/MA Winter Flounder | 0.70 | 0.70 | ..... | n/a | n/a | ..... | n/a | n/a | ..... |

**5. Allocation of Northern Windowpane Flounder for the Scallop Fishery**

This action establishes a scallop fishery sub-ACL for northern windowpane flounder equal to 21 percent of the northern windowpane flounder ABC. This allocation is based on the 90th percentile of scallop fishery catches (as a percent of the total catch) for calendar years 2005 to 2014. This approach is similar to the approach used to set the southern windowpane flounder sub-ACL for the scallop fishery in Framework 48 (78 FR 26118, May 2, 2013). The Council chose a fixed-percentage allocation rather than an allocation based on projected catch because projected scallop fishery catch of northern windowpane flounder can fluctuate greatly from year to year. The scallop fishery's sub-ACL would be calculated by reducing the portion of the ABC allocated to the scallop fishery to account for management uncertainty. The current management uncertainty buffer for zero-possession stocks is 7 percent. The management uncertainty buffer can be adjusted each time the groundfish catch limits are set.

Outside of the groundfish fishery, the scallop fishery is the other major contributor to northern windowpane flounder catch. Adopting an allocation and corresponding AM for the scallop fishery is intended to create accountability for a fishery that is responsible for a substantial share of catch or an overage if one occurs. Thus, a sub-ACL for the scallop fishery would help prevent overfishing of northern windowpane flounder, as required by National Standard 1 and section 303(a)(1) of the Magnuson-Stevens Act, and create an incentive to minimize bycatch of this stock, consistent with National Standard 9. This measure also ensures that catch from one fishery does not negatively affect another fishery.

This action does not include scallop fishery AMs for the northern windowpane flounder sub-ACL. Consistent with other scallop allocations, the Council is developing and will adopt scallop fishery AMs for this sub-ACL in Framework 28 to the Atlantic Sea Scallop FMP that is intended to be implemented for the 2018 fishing year. If there is an overage in the 2017 scallop fishery northern windowpane flounder sub-ACL, that overage would be subject to the AM. For any ACL overages that occur in 2017 and beyond, the groundfish fishery would only be subject to an AM if the groundfish fishery exceeds its sub-ACL and the overall ACL is also exceeded. The 2017 sub-ACL implemented in this action is lower than recent scallop fishery catches of northern windowpane flounder. As a result, this action also implements an AM trigger for this stock to mitigate potential impacts of a scallop fishery AM in years when the sub-ACL is low (see section ''6. Revised Trigger for Scallop Accountability Measures'').

**6. Revised Trigger for Scallop Accountability Measures**

The scallop fishery has sub-ACLs for GB yellowtail flounder, SNE/MA yellowtail flounder, southern windowpane flounder, and northern windowpane flounder. If the scallop fishery exceeds its sub-ACL for these stocks, it is subject to AMs that, in general, restrict the scallop fishery in seasons and areas with high encounter rates for these stocks. Framework 47 (77 FR 26104, May 2, 2012) adopted a policy that the scallop fishery is subject to AMs for these stocks if either: (1) The scallop fishery exceeds its sub-ACL and the total ACL is exceeded; or (2) the scallop fishery exceeds its sub-ACL by 50 percent or more. This policy was implemented to provide flexibility for the scallop fishery and help achieve optimum yield.

This final rule implements a temporary change to the trigger for the scallop fishery AMs for GB yellowtail flounder and northern windowpane flounder. For fishing years 2017 and 2018, the AMs will only be implemented if scallop fishery catch exceeds its sub-ACL by any amount and the total ACL is also exceeded. The AM trigger remains unchanged for SNE/MA yellowtail flounder and southern windowpane flounder. The adjustment

in the trigger thresholds for GB yellowtail flounder and northern windowpane flounder is intended to provide additional flexibility, beyond the existing scallop AM implementation policy, for the scallop fishery to operate in years when the overall and scallop fishery allocations for these stocks are low. The scallop fishery is expected to operate primarily on Georges Bank in 2017 and 2018, based on scallop rotational area management. Beginning in fishing year 2019, the standard policy for scallop fishery AM implementation will apply.

**7. Increase to Georges Bank Haddock Allocation for the Midwater Trawl Fishery**

This action increases the Atlantic herring midwater trawl fishery's GB haddock catch cap from 1 percent of the U.S. ABC to 1.5 percent. This adjustment is intended to achieve optimum yield for the herring fishery while minimizing bycatch of haddock to the extent practicable. The low percentage maintains the incentive to avoid haddock while not constraining the groundfish fishery. As in the past, the herring fishery's midwater trawl sub-ACL will be calculated by reducing the portion of the ABC allocated to the herring midwater trawl fishery to account for management uncertainty. The current management uncertainty buffer is 7 percent.

Framework 56 also establishes a process for reviewing the GB haddock midwater trawl sub-ACL. Following an assessment of the entire GB haddock stock, the Groundfish Plan Development Team (PDT) will review factors including, but not limited to, groundfish fishery catch performance, ACL utilization, status of the GB haddock resource, recruitment, incoming year-class strength, and the variability in the GB haddock incidental catch estimates for the Atlantic herring midwater trawl fishery. Based on this review, the PDT will determine whether changes to the GB haddock midwater trawl sub-ACL are necessary, and recommend to the Groundfish Committee and Council an appropriate sub-ACL equal to 1 to 2 percent of the GB haddock U.S. ABC.

**8. Sector Measures for Fishing Year 2017**

This action also updates annual catch entitlements for 19 sectors for the 2017 fishing year based on the new catch limits included in Framework 56 and the finalized 2017 sector rosters. We previously approved 2017 and 2018 sector operations plans, as well as sector regulatory exemptions, in an interim final rule that became effective on May 1, 2017 (82 FR 19618; April 28, 2017).

*Sector Allocations*

The sector allocations in this final rule are based on the fishing year 2017 specifications described above under ''4. Catch Limits for Fishing Years 2017–2019'' and final 2017 sector rosters (see Tables 10 through 12). A sector's allocation is calculated by summing its members' PSC for a stock and applying this cumulative PSC to the commercial sub-ACL.

An individual permit is assigned a PSC for GB cod and haddock, but is not assigned a separate PSC for the Eastern GB cod or Eastern GB haddock management units. Each sector's GB cod and GB haddock allocations are divided into an Eastern and Western ACE component, based on the sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod commercial sub-ACL and 6 percent of the GB haddock commercial sub-ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod TAC and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock allocations. Sectors can ''convert'' their Eastern GB cod and haddock allocations into Western allocation that can be fished in Western GB. Western GB allocations cannot be converted to Eastern allocations.

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**Table 10. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2017**

| Sector Name | GB Cod† | GOM Cod | GB Haddock† | GOM Haddock | GB YT Flounder | SNE/MA YT Flounder‡ | CC/GOM YT Flounder‡ | American Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder‡ | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GB Cod Fixed Gear Sector (Fixed Gear Sector) | 28.63 | 2.98 | 6.34 | 2.06 | 0.01 | 0.37 | 3.06 | 1.00 | 2.15 | 0.03 | 13.60 | 2.34 | 2.79 | 5.84 | 8.02 |
| Maine Coast Community Sector (MCCS) | 0.97 | 9.52 | 0.96 | 6.35 | 1.59 | 1.27 | 3.25 | 9.90 | 7.47 | 0.67 | 3.11 | 1.49 | 5.95 | 10.49 | 10.68 |
| Maine Permit Bank | 0.13 | 1.12 | 0.04 | 1.12 | 0.01 | 0.03 | 0.32 | 1.16 | 0.73 | 0.00 | 0.43 | 0.02 | 0.82 | 1.64 | 1.67 |
| Northeast Coastal Communities Sector (NCCS) | 0.40 | 2.10 | 0.35 | 1.53 | 0.84 | 0.70 | 1.90 | 0.61 | 1.25 | 0.05 | 2.14 | 0.71 | 1.00 | 1.96 | 1.76 |
| NEFS 1 | 0.00 | 0.03 | 0.00 | 0.00 | 0.00 | 0.00 | 0.04 | 0.01 | 0.01 | 0.00 | 0.05 | 0.00 | 0.00 | 0.00 | 0.00 |
| NEFS 2 | 5.86 | 18.47 | 10.67 | 17.07 | 1.87 | 1.73 | 19.67 | 9.31 | 13.21 | 3.21 | 18.78 | 3.51 | 14.85 | 6.45 | 11.39 |
| NEFS 3 | 0.73 | 9.90 | 0.05 | 6.81 | 0.04 | 0.07 | 6.08 | 2.07 | 1.69 | 0.01 | 6.99 | 0.41 | 0.75 | 3.24 | 3.96 |
| NEFS 4 | 4.17 | 10.61 | 5.35 | 8.60 | 2.16 | 2.35 | 6.06 | 9.39 | 8.71 | 0.69 | 6.95 | 1.28 | 6.72 | 8.09 | 6.35 |
| NEFS 5 | 0.48 | 0.00 | 0.82 | 0.00 | 1.28 | 20.93 | 0.21 | 0.43 | 0.56 | 0.44 | 0.02 | 11.99 | 0.01 | 0.09 | 0.04 |
| NEFS 6 | 2.87 | 2.96 | 2.93 | 3.84 | 2.70 | 5.27 | 3.74 | 3.89 | 5.21 | 1.50 | 4.56 | 1.94 | 5.31 | 3.91 | 3.31 |
| NEFS 7 | 1.25 | 0.80 | 1.35 | 0.59 | 3.41 | 2.47 | 2.27 | 0.74 | 0.94 | 1.28 | 2.39 | 0.80 | 0.36 | 0.56 | 0.45 |
| NEFS 8 | 6.52 | 0.16 | 5.95 | 0.07 | 10.63 | 5.22 | 2.60 | 2.09 | 2.44 | 21.16 | 0.68 | 8.97 | 0.51 | 0.47 | 0.61 |
| NEFS 9 | 13.17 | 3.02 | 11.24 | 7.39 | 25.19 | 8.72 | 10.62 | 9.71 | 9.41 | 32.56 | 2.95 | 17.95 | 9.05 | 6.38 | 6.36 |
| NEFS 10 | 0.34 | 2.35 | 0.16 | 1.25 | 0.00 | 0.55 | 4.01 | 0.93 | 1.69 | 0.01 | 8.95 | 0.49 | 0.33 | 0.61 | 0.70 |
| NEFS 11 | 0.41 | 12.23 | 0.04 | 3.08 | 0.00 | 0.02 | 2.36 | 2.05 | 1.93 | 0.00 | 2.08 | 0.02 | 1.96 | 4.73 | 9.02 |
| NEFS 12 | 0.63 | 2.98 | 0.09 | 1.05 | 0.00 | 0.01 | 7.95 | 0.50 | 0.57 | 0.00 | 7.66 | 0.22 | 0.23 | 0.30 | 0.82 |
| NEFS 13 | 12.18 | 0.91 | 20.11 | 1.05 | 34.50 | 21.03 | 8.84 | 8.48 | 9.30 | 17.82 | 3.05 | 16.60 | 4.28 | 2.15 | 2.62 |
| New Hampshire Permit Bank | 0.00 | 1.14 | 0.00 | 0.03 | 0.00 | 0.00 | 0.02 | 0.03 | 0.01 | 0.00 | 0.06 | 0.00 | 0.02 | 0.08 | 0.11 |
| Sustainable Harvest Sector 1 | 2.67 | 5.97 | 2.52 | 4.77 | 0.97 | 0.32 | 3.22 | 6.40 | 4.35 | 5.74 | 4.67 | 0.82 | 6.08 | 8.41 | 7.29 |
| Sustainable Harvest Sector 2 | 0.29 | 0.29 | 0.40 | 0.07 | 2.21 | 2.25 | 0.84 | 0.72 | 0.61 | 0.46 | 0.93 | 1.11 | 0.26 | 0.33 | 0.27 |
| Sustainable Harvest Sector 3 | 16.45 | 9.19 | 29.92 | 32.18 | 11.06 | 7.44 | 8.56 | 28.70 | 25.54 | 13.54 | 4.99 | 17.33 | 38.16 | 33.47 | 23.93 |
| **Sectors Total** | **98.15** | **96.73** | **99.30** | **98.91** | **98.48** | **80.73** | **95.60** | **98.13** | **97.77** | **99.18** | **95.06** | **87.99** | **99.45** | **99.20** | **99.37** |
| Common Pool | 1.88 | 3.18 | 0.66 | 1.06 | 1.46 | 17.17 | 4.25 | 1.70 | 2.14 | 0.80 | 5.04 | 10.58 | 0.55 | 0.76 | 0.63 |

* The data in this table are based on final fishing year 2017 sector rosters.

† For fishing year 2017, 27.5 percent of the GB cod ACL would be allocated for the Eastern U.S./Canada Area, while 56.1 percent of the GB haddock ACL would be allocated for the Eastern U.S./Canada Area.

‡ SNE/MA Yellowtail Flounder refers to the SNE/Mid-Atlantic stock. CC/COM Yellowtail Flounder refers to the Cape Cod/GOM stock.

**Table 11. ACE (in 1,000 lbs), by stock, for each sector for fishing year 2017**

| Sector Name | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB YT Flounder | SNE/MA YT Flounder | CC/GOM YT Flounder | American Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fixed Gear Sector | 92 | 243 | 18 | 4,124 | 3,232 | 137 | 0 | 2 | 23 | 27 | 35 | 0 | 192 | 30 | 626 | 433 | 3,151 |
| MCCS | 3 | 8 | 59 | 625 | 490 | 422 | 6 | 5 | 24 | 266 | 121 | 9 | 44 | 19 | 1,337 | 777 | 4,195 |
| Maine Permit Bank | 0 | 1 | 7 | 29 | 23 | 75 | 0 | 0 | 2 | 31 | 12 | 0 | 6 | 0 | 184 | 121 | 656 |
| NCCS | 1 | 3 | 13 | 228 | 179 | 102 | 3 | 3 | 14 | 16 | 20 | 1 | 30 | 9 | 224 | 145 | 692 |
| NEFS 1 | - | - | 0 | - | - | 0 | - | - | 0 | 0 | 0 | 0 | 1 | 0 | - | - | - |
| NEFS 2 | 19 | 50 | 114 | 6,937 | 5,437 | 1,136 | 7 | 7 | 148 | 250 | 214 | 44 | 264 | 45 | 3,333 | 477 | 4,473 |
| NEFS 3 | 2 | 6 | 61 | 33 | 26 | 453 | 0 | 0 | 46 | 56 | 27 | 0 | 98 | 5 | 169 | 240 | 1,557 |
| NEFS 4 | 13 | 35 | 66 | 3,480 | 2,727 | 572 | 8 | 10 | 46 | 252 | 141 | 9 | 98 | 17 | 1,509 | 599 | 2,496 |
| NEFS 5 | 2 | 4 | 0 | 530 | 416 | 0 | 5 | 86 | 2 | 12 | 9 | 6 | 0 | 155 | 3 | 7 | 17 |
| NEFS 6 | 9 | 24 | 18 | 1,903 | 1,492 | 255 | 10 | 22 | 28 | 105 | 84 | 21 | 64 | 25 | 1,192 | 290 | 1,298 |
| NEFS 7 | 4 | 11 | 5 | 880 | 689 | 39 | 12 | 10 | 17 | 20 | 15 | 18 | 34 | 10 | 80 | 41 | 179 |
| NEFS 8 | 21 | 55 | 1 | 3,868 | 3,031 | 5 | 38 | 22 | 20 | 56 | 40 | 289 | 10 | 116 | 114 | 35 | 241 |
| NEFS 9 | 42 | 112 | 19 | 7,312 | 5,731 | 492 | 90 | 36 | 80 | 261 | 152 | 445 | 41 | 232 | 2,032 | 472 | 2,499 |
| NEFS 10 | 1 | 3 | 14 | 107 | 84 | 83 | 0 | 2 | 30 | 25 | 27 | 0 | 126 | 6 | 73 | 45 | 273 |
| NEFS 11 | 1 | 3 | 76 | 24 | 19 | 205 | 0 | 0 | 18 | 55 | 31 | 0 | 29 | 0 | 441 | 350 | 3,542 |
| NEFS 12 | 2 | 5 | 18 | 61 | 48 | 70 | 0 | 0 | 60 | 14 | 9 | 0 | 108 | 3 | 52 | 22 | 324 |
| NEFS 13 | 39 | 103 | 6 | 13,081 | 10,252 | 70 | 124 | 87 | 66 | 228 | 150 | 243 | 43 | 214 | 961 | 159 | 1,029 |
| New Hampshire Permit Bank | 0 | 0 | 7 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 4 | 6 | 44 |
| Sustainable Harvest Sector 1 | 9 | 23 | 37 | 1,641 | 1,286 | 317 | 3 | 1 | 24 | 172 | 70 | 78 | 66 | 11 | 1,364 | 623 | 2,862 |
| Sustainable Harvest Sector 2 | 1 | 2 | 2 | 261 | 205 | 5 | 8 | 9 | 6 | 19 | 10 | 6 | 13 | 14 | 59 | 25 | 104 |
| Sustainable Harvest Sector 3 | 53 | 140 | 57 | 19,458 | 15,250 | 2,141 | 40 | 31 | 64 | 771 | 413 | 185 | 70 | 224 | 8,567 | 2,478 | 9,399 |
| **Sectors Total** | **316** | **832** | **598** | **64,583** | **50,615** | **6,580** | **353** | **334** | **718** | **2,636** | **1,582** | **1,355** | **1,338** | **1,136** | **22,325** | **7,344** | **39,030** |
| Common Pool | 6 | 16 | 20 | 427 | 335 | 70 | 5 | 71 | 32 | 46 | 35 | 11 | 71 | 137 | 123 | 56 | 249 |

*The data in this table are based on final fishing year 2017 sector rosters.

#Numbers are rounded to the nearest thousand lbs. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector.

**Table 12. ACE (in metric tons), by stock, for each sector for fishing year 2017**

| Sector Name | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB YT Flounder | SNE/MA YT Flounder | CC/GOM YT Flounder | American Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fixed Gear Sector | 42 | 110 | 8 | 1,871 | 1,466 | 62 | 0 | 1 | 10 | 12 | 16 | 0 | 87 | 14 | 284 | 196 | 1,429 |
| MCCS | 1 | 4 | 27 | 283 | 222 | 192 | 3 | 2 | 11 | 121 | 55 | 4 | 20 | 9 | 606 | 352 | 1,903 |
| Maine Permit Bank | 0 | 1 | 3 | 13 | 10 | 34 | 0 | 0 | 1 | 14 | 5 | 0 | 3 | 0 | 84 | 55 | 298 |
| NCCS | 1 | 2 | 6 | 104 | 81 | 46 | 1 | 1 | 6 | 7 | 9 | 0 | 14 | 4 | 102 | 66 | 314 |
| NEFS 1 | - | - | 0 | - | - | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| NEFS 2 | 9 | 23 | 52 | 3,147 | 2,466 | 515 | 3 | 3 | 67 | 113 | 97 | 20 | 120 | 21 | 1,512 | 216 | 2,029 |
| NEFS 3 | 1 | 3 | 28 | 15 | 12 | 205 | 0 | 0 | 21 | 25 | 12 | 0 | 45 | 2 | 77 | 109 | 706 |
| NEFS 4 | 6 | 16 | 30 | 1,578 | 1,237 | 259 | 4 | 4 | 21 | 114 | 64 | 4 | 44 | 8 | 684 | 272 | 1,132 |
| NEFS 5 | 1 | 2 | 0 | 241 | 189 | 0 | 2 | 39 | 1 | 5 | 4 | 3 | 0 | 70 | 1 | 3 | 8 |
| NEFS 6 | 4 | 11 | 8 | 863 | 677 | 116 | 4 | 10 | 13 | 47 | 38 | 9 | 29 | 11 | 541 | 131 | 589 |
| NEFS 7 | 2 | 5 | 2 | 399 | 313 | 18 | 6 | 5 | 8 | 9 | 7 | 8 | 15 | 5 | 36 | 19 | 81 |
| NEFS 8 | 10 | 25 | 0 | 1,754 | 1,375 | 2 | 17 | 10 | 9 | 25 | 18 | 131 | 4 | 53 | 52 | 16 | 109 |
| NEFS 9 | 19 | 51 | 8 | 3,317 | 2,599 | 223 | 41 | 16 | 36 | 118 | 69 | 202 | 19 | 105 | 922 | 214 | 1,133 |
| NEFS 10 | 0 | 1 | 7 | 49 | 38 | 38 | 0 | 1 | 14 | 11 | 12 | 0 | 57 | 3 | 33 | 21 | 124 |
| NEFS 11 | 1 | 2 | 34 | 11 | 9 | 93 | 0 | 0 | 8 | 25 | 14 | 0 | 13 | 0 | 200 | 159 | 1,607 |
| NEFS 12 | 1 | 2 | 8 | 28 | 22 | 32 | 0 | 0 | 27 | 6 | 4 | 0 | 49 | 1 | 23 | 10 | 147 |
| NEFS 13 | 18 | 47 | 3 | 5,934 | 4,650 | 32 | 56 | 39 | 30 | 103 | 68 | 110 | 19 | 97 | 436 | 72 | 467 |
| New Hampshire Permit Bank | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 3 | 20 |
| Sustainable Harvest Sector 1 | 4 | 10 | 17 | 744 | 583 | 144 | 2 | 1 | 11 | 78 | 32 | 36 | 30 | 5 | 619 | 283 | 1,298 |
| Sustainable Harvest Sector 2 | 0 | 1 | 1 | 118 | 93 | 2 | 4 | 4 | 3 | 9 | 5 | 3 | 6 | 6 | 27 | 11 | 47 |
| Sustainable Harvest Sector 3 | 24 | 63 | 26 | 8,826 | 6,917 | 971 | 18 | 14 | 29 | 350 | 187 | 84 | 32 | 101 | 3,886 | 1,124 | 4264 |
| Sectors Total | 143 | 378 | 271 | 29,295 | 22,959 | 2,985 | 160 | 151 | 326 | 1,196 | 718 | 615 | 607 | 515 | 10,126 | 3,331 | 17,704 |
| Common Pool | 3 | 7 | 9 | 194 | 152 | 32 | 2.37 | 32 | 14 | 21 | 16 | 5 | 32 | 62 | 56 | 25 | 113 |

*The data in this table are based on final fishing year 2017 sector rosters.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector.

*Sector Carryover From Fishing Year 2016 to Fishing Year 2017*

We completed 2016 fishing year data reconciliation with sectors and determined final 2016 fishing year sector catch and the amount of allocation that sectors may carry over from the 2016 to the 2017 fishing year. Table 13 includes the maximum amount of allocation that sectors may carry over from the 2016 to the 2017 fishing year. With the exception of GB yellowtail flounder, a sector may carry over up to 10 percent of unused ACE for each stock from the end of 2016 to 2017, but may not exceed the ABC for each stock. The unused ACE that is carried over is adjusted down when necessary to ensure the combined carryover of unused ACE and the sector sub-ACL do not exceed each stock's ABC. This is the sector's available carryover for fishing year 2017.

Table 14 includes the *de minimis* amount of carryover for each sector for the 2017 fishing year that is used to determine when accountability measures are required. If the overall ACL for any allocated stock is exceeded for the 2017 fishing year, any available carryover harvested by a sector, minus the sector's *de minimis* amount, will be counted against its allocation to determine whether an overage subject to an accountability measure occurred. Tables 15 and 16 list the final ACE available to sectors for the 2017 fishing year, including final carryover amounts for each sector, as adjusted down when necessary to equal each stock's ABC.

**Table 13. Finalized Carryover ACE from Fishing Year 2016 to Fishing Year 2017 (lb)[1]**

| | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB Yellowtail Flounder | SNE/MA Yellowtail Flounder | CC/GOM Yellowtail Flounder | Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FGS | - | 7,436 | 1,612 | - | 398,369 | 9,980 | - | 108 | 1,322 | 2,117 | 1,362 | 12 | 10,687 | 391 | 35,952 | 22,928 | 157,294 |
| MCCS | - | 248 | 3,592 | - | 2,679 | 15,227 | - | 226 | 403 | 16,380 | 3,973 | 3 | 1,471 | 254 | 37,606 | 23,304 | 123,141 |
| NCCS | - | 176 | 403 | - | 8,653 | 2,090 | - | 211 | 350 | 302 | 52 | 23 | 1,067 | 229 | 5,875 | 3,436 | 10,924 |
| NEFS 1 | - | 0 | 2 | - | 0 | 2 | - | 0 | 2 | 5 | 1 | 0 | 3 | 0 | 0 | 0 | 0 |
| NEFS 2 | - | 2,255 | 11,851 | - | 668,654 | 94,577 | - | 386 | 8,623 | 0 | 5,238 | 1,422 | 15,350 | 2,813 | 194,007 | 27,752 | 274,478 |
| NEFS 3 | - | 473 | 7,522 | - | 6,218 | 40,290 | - | 19 | 3,093 | 1,322 | 1,453 | 6 | 6,122 | 334 | 11,759 | 14,385 | 105,315 |
| NEFS 4 | - | 3,644 | 1,585 | - | 335,211 | 44,053 | - | 691 | 1,447 | 11,285 | 4,287 | 306 | 4,955 | 279 | 0 | 32,243 | 130,597 |
| NEFS 5 | - | 225 | 0 | - | 53,812 | 19 | - | 6,852 | 49 | 561 | 186 | 60 | 19 | 10,847 | 282 | 458 | 1,034 |
| NEFS 6 | - | 2,018 | 1,826 | - | 183,697 | 20,538 | - | 1,549 | 1,626 | 5,472 | 4,245 | 667 | 3,615 | 1,557 | 68,494 | 15,665 | 70,061 |
| NEFS 7 | - | 1,229 | 496 | - | 84,979 | 3,144 | - | 726 | 987 | 1,600 | 764 | 568 | 1,890 | 645 | 4,603 | 2,233 | 9,633 |
| NEFS 8 | - | 6,330 | 98 | - | 383,886 | 428 | - | 1,534 | 1,274 | 4,740 | 2,119 | 9,395 | 562 | 7,248 | 7,141 | 2,056 | 13,556 |
| NEFS 9 | - | 6,464 | 1,860 | - | 706,470 | 39,361 | - | 2,564 | 4,621 | 21,006 | 6,771 | 14,442 | 2,334 | 14,418 | 116,742 | 25,525 | 134,829 |
| NEFS 10 | - | 333 | 1,490 | - | 10,328 | 7,266 | - | 156 | 1,979 | 2,386 | 1,235 | 4 | 7,318 | 401 | 4,192 | 2,490 | 14,778 |
| NEFS 11 | - | 389 | 7,652 | - | 2,338 | 16,251 | - | 5 | 621 | 2,520 | 1,666 | 1 | 1,684 | 14 | 25,412 | 18,930 | 191,011 |
| NEFS 12 | - | 544 | 383 | - | 5,907 | 5,566 | - | 3 | 3,460 | 1,090 | 464 | 0 | 6,073 | 175 | 1,784 | 1,181 | 17,485 |
| NEFS 13 | - | 10,211 | 302 | - | 1,253,586 | 5,530 | - | 6,181 | 3,703 | 18,137 | 0 | 7,893 | 2,392 | 13,294 | 54,612 | 8,277 | 54,953 |
| SHS1 | - | 3,214 | 4,117 | - | 193,578 | 31,318 | - | 175 | 2,256 | 5,281 | 3,176 | 785 | 5,641 | 1,012 | 84,589 | 37,991 | 176,681 |
| SHS2 | - | 132 | 184 | - | 25,237 | 387 | - | 660 | 203 | 863 | 503 | 123 | 1,052 | 530 | 0 | 1,341 | 5,660 |
| SHS3 | - | 16,398 | 6,669 | - | 1,915,469 | 184,799 | - | 2,195 | 3,653 | 46,019 | 21,136 | 6,169 | 2,713 | 13,892 | 528,619 | 150,015 | 576,497 |
| Grand Total | - | 61,719 | 51,644 | - | 6,239,071 | 520,826 | - | 24,241 | 39,672 | 141,086 | 58,631 | 41,879 | 74,948 | 68,333 | 1,181,669 | 390,210 | 2,067,927 |

[1]GB cod and GB haddock ACE are carried over as Western ACE of the respective stock to comply with the U.S./Canada sharing agreement. Similarly, GB yellowtail flounder cannot be carried over. Therefore, there is no carryover for Eastern GB cod and haddock, denoted by a "-".

**Table 14. *De Minimis* Carryover ACE from Fishing Year 2016 to Fishing Year 2017 (lb)[1]**

| | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB Yellowtail Flounder | SNE/MA Yellowtail Flounder | CC/GOM Yellowtail Flounder | Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FGS | - | 3,350 | 184 | - | 60,981 | 1,371 | - | 15 | 230 | 269 | 348 | 4 | 1,915 | 302 | 6,261 | 4,325 | 31,507 |
| MCCS | - | 113 | 588 | - | 2,679 | 4,223 | - | 53 | 244 | 2,660 | 1,209 | 3 | 438 | 192 | 13,368 | 7,768 | 41,955 |
| NCCS | - | 47 | 130 | - | 3,379 | 1,019 | - | 29 | 143 | 164 | 52 | 7 | 302 | 91 | 2,243 | 1,449 | 6,920 |
| NEFS 1 | - | 0 | 2 | - | 0 | 2 | - | 0 | 2 | 2 | 1 | 0 | 3 | 0 | 0 | 0 | 0 |
| NEFS 2 | - | 685 | 1,141 | - | 102,574 | 11,357 | - | 72 | 1,478 | 0 | 2,137 | 438 | 2,644 | 452 | 33,327 | 4,772 | 44,731 |
| NEFS 3 | - | 86 | 612 | - | 486 | 4,530 | - | 3 | 457 | 556 | 273 | 2 | 984 | 53 | 1,692 | 2,398 | 15,566 |
| NEFS 4 | - | 487 | 656 | - | 51,454 | 5,719 | - | 97 | 455 | 2,522 | 1,409 | 95 | 979 | 166 | 0 | 5,987 | 24,961 |
| NEFS 5 | - | 56 | 0 | - | 7,843 | 2 | - | 865 | 15 | 116 | 91 | 60 | 2 | 1,548 | 33 | 70 | 167 |
| NEFS 6 | - | 336 | 183 | - | 28,146 | 2,555 | - | 218 | 281 | 1,045 | 842 | 206 | 642 | 250 | 11,922 | 2,898 | 12,984 |
| NEFS 7 | - | 147 | 50 | - | 13,006 | 393 | - | 102 | 170 | 199 | 151 | 175 | 336 | 104 | 801 | 413 | 1,785 |
| NEFS 8 | - | 763 | 10 | - | 57,191 | 45 | - | 216 | 195 | 561 | 395 | 2,891 | 96 | 1,158 | 1,138 | 345 | 2,409 |
| NEFS 9 | - | 1,541 | 186 | - | 108,123 | 4,917 | - | 361 | 797 | 2,607 | 1,523 | 4,449 | 415 | 2,317 | 20,320 | 4,722 | 24,987 |
| NEFS 10 | - | 40 | 145 | - | 1,583 | 829 | - | 23 | 301 | 250 | 274 | 1 | 1,261 | 63 | 730 | 455 | 2,734 |
| NEFS 11 | - | 48 | 756 | - | 358 | 2,048 | - | 1 | 177 | 552 | 313 | 0 | 293 | 3 | 4,411 | 3,499 | 35,420 |
| NEFS 12 | - | 74 | 184 | - | 904 | 695 | - | 0 | 597 | 135 | 92 | 0 | 1,079 | 28 | 515 | 219 | 3,240 |
| NEFS 13 | - | 1,425 | 56 | - | 193,422 | 699 | - | 869 | 664 | 2,279 | 0 | 2,435 | 429 | 2,143 | 9,615 | 1,591 | 10,288 |
| SHS1 | - | 313 | 369 | - | 24,260 | 3,170 | - | 13 | 242 | 1,720 | 704 | 784 | 658 | 106 | 13,639 | 6,228 | 28,616 |
| SHS2 | - | 34 | 18 | - | 3,863 | 48 | - | 93 | 63 | 192 | 99 | 63 | 131 | 143 | 0 | 247 | 1,041 |
| SHS3 | - | 1,925 | 568 | - | 287,713 | 21,407 | - | 307 | 643 | 7,710 | 4,132 | 1,849 | 703 | 2,236 | 85,674 | 24,779 | 93,994 |
| Grand Total | - | 11,470 | 5,838 | - | 947,965 | 65,029 | - | 3,337 | 7,154 | 23,539 | 14,045 | 13,462 | 13,310 | 11,355 | 205,689 | 72,165 | 383,305 |

[1]GB cod and GB haddock ACE are carried over as Western ACE of the respective stock to comply with the U.S./Canada sharing agreement. Similarly, GB yellowtail flounder cannot be carried over. Therefore, there is no carryover for Eastern GB cod and haddock, denoted by a "-".

**Table 15. Total ACE Available to Sectors in Fishing Year 2017 with Finalized Carryover (mt)**

| | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB Yellowtail Flounder | SNE/MA Yellowtail Flounder | CC/GOM Yellowtail Flounder | Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FGS | 42 | 114 | 9 | 1,300 | 1,647 | 67 | 0 | 1 | 11 | 13 | 16 | 0 | 92 | 14 | 300 | 207 | 1,500 |
| MCCS | 1 | 4 | 28 | 197 | 223 | 198 | 3 | 2 | 11 | 128 | 57 | 4 | 21 | 9 | 623 | 363 | 1,959 |
| MPB | 0 | 1 | 3 | 9 | 10 | 34 | 0 | 0 | 1 | 14 | 5 | 0 | 3 | 0 | 84 | 55 | 298 |
| NCCS | 1 | 2 | 6 | 72 | 85 | 47 | 1 | 1 | 7 | 8 | 9 | 0 | 14 | 4 | 104 | 67 | 319 |
| NEFS 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| NEFS 2 | 9 | 24 | 57 | 2,187 | 2,769 | 558 | 3 | 3 | 71 | 113 | 99 | 21 | 127 | 22 | 1,600 | 229 | 2,153 |
| NEFS 3 | 1 | 3 | 31 | 10 | 15 | 224 | 0 | 0 | 22 | 26 | 13 | 0 | 47 | 3 | 82 | 115 | 754 |
| NEFS 4 | 6 | 18 | 30 | 1,097 | 1,389 | 279 | 4 | 5 | 21 | 119 | 66 | 4 | 47 | 8 | 684 | 286 | 1,191 |
| NEFS 5 | 1 | 2 | 0 | 167 | 213 | 0 | 2 | 42 | 1 | 6 | 4 | 3 | 0 | 75 | 2 | 3 | 8 |
| NEFS 6 | 4 | 12 | 9 | 600 | 760 | 125 | 4 | 11 | 13 | 50 | 40 | 10 | 31 | 12 | 572 | 139 | 621 |
| NEFS 7 | 2 | 5 | 2 | 277 | 351 | 19 | 6 | 5 | 8 | 10 | 7 | 8 | 16 | 5 | 38 | 20 | 85 |
| NEFS 8 | 10 | 28 | 0 | 1,219 | 1,549 | 2 | 17 | 10 | 9 | 28 | 19 | 135 | 5 | 56 | 55 | 17 | 115 |
| NEFS 9 | 19 | 54 | 9 | 2,305 | 2,920 | 241 | 41 | 18 | 38 | 128 | 72 | 208 | 20 | 112 | 975 | 226 | 1,195 |
| NEFS 10 | 0 | 1 | 7 | 34 | 43 | 41 | 0 | 1 | 15 | 12 | 13 | 0 | 61 | 3 | 35 | 22 | 131 |
| NEFS 11 | 1 | 2 | 38 | 8 | 10 | 100 | 0 | 0 | 8 | 26 | 15 | 0 | 14 | 0 | 212 | 167 | 1,693 |
| NEFS 12 | 1 | 3 | 9 | 19 | 24 | 34 | 0 | 0 | 29 | 7 | 4 | 0 | 52 | 1 | 24 | 10 | 155 |
| NEFS 13 | 18 | 51 | 3 | 4,123 | 5,219 | 34 | 56 | 42 | 32 | 112 | 68 | 114 | 21 | 103 | 461 | 76 | 492 |
| NHPB | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 3 | 20 |
| SHS1 | 4 | 12 | 19 | 517 | 671 | 158 | 2 | 1 | 12 | 80 | 33 | 36 | 32 | 5 | 657 | 300 | 1,378 |
| SHS2 | 0 | 1 | 1 | 82 | 104 | 2 | 4 | 5 | 3 | 9 | 5 | 3 | 6 | 7 | 27 | 12 | 50 |
| SHS3 | 24 | 71 | 29 | 6,133 | 7,786 | 1,055 | 18 | 15 | 31 | 371 | 197 | 87 | 33 | 108 | 4,126 | 1,192 | 4,525 |
| Grand Total | 143 | 406 | 295 | 20,357 | 25,789 | 3,221 | 160 | 162 | 344 | 1,260 | 744 | 634 | 641 | 546 | 10,662 | 3,508 | 18,642 |

**Table 16. Total ACE Available to Sectors in Fishing Year 2017 with Finalized Carryover (1,000 lb)**

| | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB Yellowtail Flounder | SNE/MA Yellowtail Flounder | CC/GOM Yellowtail Flounder | Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FGS | 92 | 250 | 20 | 2,866 | 3,631 | 147 | 0 | 2 | 24 | 29 | 36 | 0 | 202 | 31 | 662 | 455 | 3,308 |
| MCCS | 3 | 8 | 62 | 434 | 492 | 438 | 6 | 5 | 25 | 282 | 125 | 9 | 45 | 19 | 1,374 | 800 | 4,319 |
| MPB | 0 | 1 | 7 | 20 | 23 | 75 | 0 | 0 | 2 | 31 | 12 | 0 | 6 | 0 | 184 | 121 | 656 |
| NCCS | 1 | 4 | 13 | 159 | 188 | 104 | 3 | 3 | 15 | 17 | 20 | 1 | 31 | 9 | 230 | 148 | 703 |
| NEFS 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| NEFS 2 | 19 | 52 | 126 | 4,821 | 6,105 | 1,230 | 7 | 8 | 156 | 250 | 219 | 45 | 280 | 48 | 3,527 | 505 | 4,748 |
| NEFS 3 | 2 | 7 | 69 | 23 | 32 | 493 | 0 | 0 | 49 | 57 | 29 | 0 | 105 | 6 | 181 | 254 | 1,662 |
| NEFS 4 | 13 | 39 | 67 | 2,418 | 3,062 | 616 | 8 | 10 | 47 | 263 | 145 | 10 | 103 | 17 | 1,509 | 631 | 2,627 |
| NEFS 5 | 2 | 4 | 0 | 369 | 469 | 0 | 5 | 93 | 2 | 12 | 9 | 6 | 0 | 166 | 4 | 7 | 18 |
| NEFS 6 | 9 | 26 | 20 | 1,323 | 1,675 | 276 | 10 | 23 | 30 | 110 | 88 | 21 | 68 | 27 | 1,261 | 305 | 1,368 |
| NEFS 7 | 4 | 12 | 5 | 611 | 774 | 42 | 12 | 11 | 18 | 21 | 16 | 18 | 35 | 11 | 85 | 44 | 188 |
| NEFS 8 | 21 | 62 | 1 | 2,688 | 3,415 | 5 | 38 | 23 | 21 | 61 | 42 | 298 | 10 | 123 | 121 | 37 | 254 |
| NEFS 9 | 42 | 118 | 21 | 5,081 | 6,437 | 531 | 90 | 39 | 84 | 282 | 159 | 459 | 44 | 246 | 2,149 | 498 | 2,633 |
| NEFS 10 | 1 | 3 | 16 | 74 | 94 | 90 | 0 | 2 | 32 | 27 | 29 | 0 | 133 | 7 | 77 | 48 | 288 |
| NEFS 11 | 1 | 4 | 83 | 17 | 21 | 221 | 0 | 0 | 18 | 58 | 33 | 0 | 31 | 0 | 466 | 369 | 3,733 |
| NEFS 12 | 2 | 6 | 19 | 42 | 54 | 75 | 0 | 0 | 63 | 15 | 10 | 0 | 114 | 3 | 53 | 23 | 342 |
| NEFS 13 | 39 | 114 | 6 | 9,090 | 11,506 | 75 | 124 | 93 | 70 | 246 | 150 | 251 | 45 | 228 | 1,016 | 167 | 1,084 |
| NHPB | 0 | 0 | 7 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 4 | 6 | 44 |
| SHS1 | 9 | 26 | 41 | 1,140 | 1,479 | 348 | 3 | 1 | 26 | 177 | 74 | 79 | 71 | 12 | 1,448 | 661 | 3,038 |
| SHS2 | 1 | 3 | 2 | 182 | 230 | 5 | 8 | 10 | 7 | 20 | 10 | 6 | 14 | 15 | 59 | 26 | 110 |
| SHS3 | 53 | 156 | 63 | 13,522 | 17,165 | 2,326 | 40 | 33 | 68 | 817 | 434 | 191 | 73 | 238 | 9,096 | 2,628 | 9,976 |
| Grand Total | 316 | 894 | 649 | 44,880 | 56,854 | 7,101 | 353 | 358 | 758 | 2,777 | 1,641 | 1,397 | 1,413 | 1,204 | 23,507 | 7,734 | 41,098 |

BILLING CODE 3510–22–C

**9. Fishing Year 2017 Annual Measures Under Regional Administrator Authority**

Northeast Multispecies FMP regulations give us authority to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special Management Programs on an annual basis, or as needed. This action implements a number of these management measures for fishing year 2017. These measures are not part of Framework 56, and were not specifically proposed by the Council. We are implementing them in conjunction with Framework 56 measures in this action for efficiency purposes, and because they relate to the catch limits considered in Framework 56.

*Witch Flounder and American Plaice Common Pool Trip Limits*

As discussed above in section ''4. Catch Limits for Fishing Years 2017–2019,'' this action implements an increase to the witch flounder ABC for fishing year 2017. We are adjusting the common pool trip limits for witch flounder and American plaice in response to this increase, after considering changes to the common pool sub-ACLs and sector rosters from 2016 to 2017, trimester TACs for 2017, catch rates of witch flounder and American plaice from previous years, and other available information. Table 17 details the witch flounder for fishing year 2017 implemented. The common pool trip limits for all other groundfish stocks remain the same as those implemented on May 1, 2017, and are described in the information sheet available here: *https://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/multipossessionlimits.pdf.*

TABLE 17—COMMON POOL TRIP LIMITS FOR FISHING YEAR 2017

| Stock | Current 2017 trip limit | New 2017 trip limit |
|---|---|---|
| Witch Flounder | 150 lb (68 kg)/trip | 400 lb (181 kg)/trip. |
| American Plaice | 1,000 lb (454 kg)/trip | 500 lb (227 kg)/trip. |

*Closed Area II Yellowtail Flounder/Haddock Special Access Program*

This action allocates zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2017. Common pool vessels can still fish in this SAP in 2017 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels are not allowed to fish in this SAP using flounder trawl nets. This SAP is open from August 1, 2017, through January 31, 2018.

We have the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. The FMP specifies that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (or 2,250,000 lb (1,020,600 kg)). This calculation accounts for the projected catch from the area outside the SAP. Based on the fishing year 2017 GB yellowtail flounder groundfish sub-ACL of 363,763 lb (165,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2017 GB yellowtail flounder allocation.

**10. Notice of Fishing Year 2017 Northern and Southern Windowpane Flounder Accountability Measures**

Catch exceeded the total ACLs for both northern and southern windowpane flounder by more than 20 percent in fishing year 2015. If catch exceeds the ACL for either windowpane stock by more than 20 percent, we are required to implement the large AM area restrictions for each stock. The AM area restrictions require certain vessels to use approved selective gear types that reduce flatfish catch inside the AM areas during the 2017 fishing year. An overview of the windowpane AM is available here: *https://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/windowpaneaminfosheet.pdf.*

This final rule announces the implementation timeline for the 2017 northern and southern windowpane flounder AMs. In developing this timeline, we considered updated 2016 catch information for both windowpane flounder stocks, correspondence from the New England and Mid-Atlantic Councils prior to the proposed rule, and public comments on the proposed rule.

*Northern Windowpane Flounder*

Fishing year 2015 catch exceeded the total ACL for northern windowpane flounder by 36 percent. Because catch exceeded the ACL by more than 20 percent, the large northern windowpane flounder AM area (Figure 1) will take effect for all groundfish trawl vessels on August 1, 2017. Common pool and sector vessels fishing on a groundfish trip with trawl gear are required to use one of the approved selective gears when fishing inside the AM area (haddock separator trawl, Ruhle trawl, or rope separator trawl). Sectors cannot request an exemption from these AMs. There are no restrictions on common pool or sector vessels fishing with longline or gillnet gear.

Our preliminary estimates indicate that 85 mt of northern windowpane flounder was caught during the 2016 fishing year, which is 48 percent of the total 2016 ACL (177 mt) (Table 18). The regulations allow us to remove the northern windowpane flounder AM early if we determine that northern windowpane flounder catch remained below the ACL in the year immediately following an overage. This means that if we have implemented an AM in year 3 (2017) due to an overage in year 1 (2015), we can remove the AM if we determine that catch did not exceed the ACL in year 2 (2016). We do not typically finalize year-end data until several months into the fishing year, so the existing regulations only permit us to remove the AM on or after September 1. Thus, although we must implement the northern windowpane AM area on August 1, 2017, it will only be effective through August 31, 2017, because 2016 catch was below the ACL. Beginning on September 1, groundfish vessels will no longer be required to use approved selective gears when fishing inside the northern windowpane flounder AM area. We encourage vessels to continue to limit northern windowpane flounder catch during the 2017 fishing year, as an overage in 2017 would result in an AM in a future fishing year.

**Table 18. Estimated Fishing Year 2016 Windowpane Flounder ACLs and Catch**

| Stock | OFL (mt) | ABC (mt) | Total ACL (mt) | Catch (mt and percent of ACL or sub-ACL) | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | Total | | Groundfish Fishery | Scallop Fishery | State Waters | Other sub-Component |
| Northern windowpane flounder | 243 | 182 | 177 | 85 | 48% | 70% | -* | 35% | 35% |
| Southern windowpane flounder | 833 | 623 | 599 | 495 | 82% | 132% | 54% | 78% | 87% |

*For 2016, scallop fishery catch of northern windowpane flounder is counted toward the other sub-component.

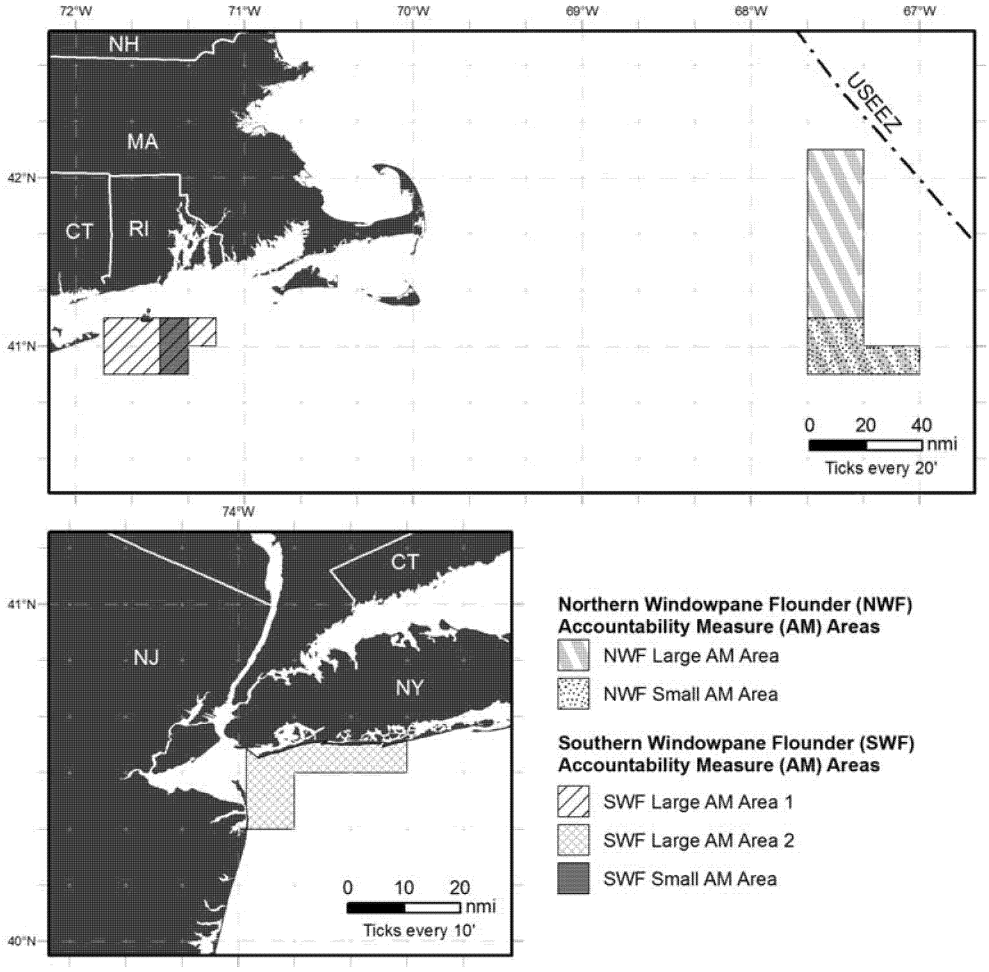
*Southern Windowpane Flounder*

Total 2015 catch exceeded the total ACL for southern windowpane flounder by more than 20 percent. Because the groundfish fishery, the scallop fishery, and the other non-groundfish fisheries all exceeded their respective sub-ACLs and catch exceeded the overall ACL by more than 20 percent, the large southern windowpane flounder AM areas (Figure 1) will take effect for all groundfish trawl vessels, and for non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12 cm) or greater on August 1, 2017. Common pool and sector vessels fishing on a groundfish trip with trawl gear, and non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12 cm) or greater, are required to use one of the approved selective gears when fishing inside the AM areas. Sectors cannot request an exemption from these AMs. There are no restrictions on common pool or sector vessels fishing with longline or gillnet gear. The scallop fishery AM will go into place for the entire month of February 2018. The AM requires additional restrictions for dredge gear in the area west of 71° W. longitude, excluding the Mid-Atlantic scallop access areas.

Our preliminary estimates indicate that 495 mt of southern windowpane flounder was caught during the 2016 fishing year, which is 82 percent of the total 2016 ACL (599 mt) (Table 18). As noted above for northern windowpane flounder, the regulations allow us to remove a windowpane AM early if we determine that catch remained below the ACL in the year immediately following an overage. We implemented the provision that allows us to reduce the duration of the AM under Framework 52 (80 FR 2021; January 15, 2015). The New England Council developed this provision, and another provision to reduce the size of the windowpane AMs, explicitly to mitigate the economic impacts of the windowpane flounder AMs and increase fishing opportunities for the groundfish fishery, while still preventing overfishing. Although the Framework 52 provisions to reduce the size and duration of the southern windowpane flounder AMs were not intended to apply to non-groundfish trawl vessels or the scallop fishery, the regulatory text for these provisions was ambiguous, and did not specifically state that the options to reduce the size or duration of the southern windowpane flounder AMs should only apply to the groundfish fishery. Based on correspondence with the New England Council prior to the Framework 56 proposed rule, we included a regulatory text correction in the Framework 56 proposed rule and in this final rule to clarify that these provisions only applied to the groundfish fishery. However, both the New England and Mid-Atlantic Fishery Management Councils requested that we use any and all remediation methods available to remove or modify the southern windowpane accountability measures for fishing year 2017. In support of their requests, the Councils pointed to the rebuilt status of the southern windowpane flounder stock, as well as the potential economic impacts of the large AM on the groundfish, scallop, and large-mesh non-groundfish fisheries. These requests, and the expected biological and economic implications of the large southern windowpane AM area, are discussed in the proposed rule.

The southern windowpane flounder AM areas will be effective until August 31, 2017, for all groundfish trawl vessels. However, we are not able to remove the southern windowpane AM areas for large-mesh non-groundfish vessels based on the existing regulations. We are considering an emergency rule to extend the Framework 52 provision to remove the AM areas for the large-mesh non-groundfish vessels as close to September 1, 2017, as possible. Beginning on September 1, 2017, groundfish trawl vessels will no longer be required to use approved selective gears when fishing inside the AM areas. We encourage vessels to continue to limit southern windowpane flounder catch during the 2017 fishing year, as an overage in 2017 would still result in an AM for a future fishing year. At its June 2017 meeting, the New England Council recommended analyzing revisions to the large-mesh non-groundfish fishery AMs in Framework 57 to the Northeast Multispecies FMP, which has an intended implementation date of May 1, 2018. The Mid-Atlantic Council has offered analytic support for potential revisions. The revisions may include the extension of the Framework 52 provisions to reduce the size or duration of the southern windowpane flounder AM areas to large-mesh non-groundfish fisheries, or other modifications to the size, location, duration, or trigger for the windowpane flounder AMs. We will work with the Councils to ensure that revisions to the windowpane AMs maintain conservation benefits to the windowpane flounder stocks while still allowing the affected fisheries to achieve optimum yield.

**Figure 1. Northern and Southern Windowpane Flounder Accountability Measure Areas**




**11. Regulatory Corrections Under Regional Administrator Authority**

The following changes are being made using Magnuson-Stevens Act section 305(d) authority to clarify regulatory intent, correct references, inadvertent deletions, and other minor errors.

This rule clarifies the regulatory text regarding net obstruction or constriction in § 648.80 to improve enforceability.

This rule removes § 648.85(d), which describes the now obsolete haddock incidental catch allowance for some Atlantic herring vessels as a special access program within the Northeast multispecies fishery. The haddock incidental catch allowances were codified in the regulations at § 648.90(a)(4)(iii)(D) as midwater trawl sub-ACLs for the GOM and GB haddock stocks when we implemented ACLs and AMs in Amendment 16. This rule removes the references to § 648.85(d) throughout the regulations, and replaces them with the reference to the haddock mid-water trawl sub-ACLs.

This rule clarifies the regulatory text that describes the windowpane flounder and ocean pout accountability measures in § 648.90.

Comments and Responses on Measures Proposed in the Framework 56 Proposed Rule

We received nine comments during the comment period on the Framework 56 proposed rule, which included comments on the windowpane flounder AMs that were described in conjunction with the proposed Framework 56 measures. Public comments were submitted by the New England Council, the Mid-Atlantic Council, two commercial fishing organizations (the Northeast Seafood Coalition (NSC) and the Maine Coast Fishermen's Association (MCFA)), one commercial fisherman, and four individuals. Responses to the comments received are below, and, when possible, responses to similar comments on the proposed measures have been consolidated.

Witch Flounder Status Determination Criteria

*Comment 1:* A private citizen supported disapproval of the New England Council's proposed status determination criteria for witch flounder. The commenter noted that it is problematic to have no objective criteria to measure stock status, and questioned whether, in the absence of criteria, the fishing industry could rewrite the standards to favor overfishing.

*Response:* We are disapproving the New England Council's proposed status determination criteria for witch flounder because the Magnuson-Stevens Act requires us to maintain these criteria. The National Standard Guidelines require each FMP to specify objective and measurable status determination criteria that enable us to monitor stock status. When data are

unavailable to specify status determination criteria based on maximum sustainable yield (MSY) or MSY proxies, the Council and NMFS may use alternative approaches to monitor stock status that ensure sustainability. In the absence of alternative SDCs, we intend to maintain the existing criteria until we and the Council are able to generate SDCs based on the empirical swept-area biomass approach or alternative approaches.

The commenter's suggestion that the fishing industry could rewrite the standards to favor overfishing is unclear. We and the Council work together to set objective standards, or status determination criteria, to determine whether overfishing is occurring. These criteria are developed and implemented through management actions that formally incorporate the criteria in the FMP, and it is not possible for external parties to set their own, or different, criteria for determining stock status.

*Comment 2:* The New England Council and NSC opposed disapproval of the Council's proposed status determination criteria of unknown. The Council expressed concern that maintaining the status determination criteria from the 2008 assessment ignores nearly a decade of catch and survey data, and should not be considered the best scientific information available. The Council notes that its recommendation is based on advice from the peer review panel and the SSC, and that we did not provide justification for rejecting the conclusions of these scientific groups. Finally, the Council noted that it is not possible to develop status determination criteria for witch flounder as part of the 2017 groundfish operational assessments, as this type of analysis is outside of the terms of reference for this assessment, and is usually reserved for benchmark assessments or the research track.

In its comment, the NSC questioned our interpretation that the Council intended to change the Amendment 16 status determination criteria. The NSC explained that the Council's recommended stock status is ''unknown'' not because there are no measurable and objective criteria, but because there are currently no numerical estimates of fishing mortality or relative biomass to these reference points.

*Response:* As described earlier in this preamble, we are disapproving the Council's proposed change to the existing status determination criteria. In the absence of new status determination criteria from the 2016 witch flounder benchmark assessment, this action maintains the existing status determination criteria. However, because a stock assessment model is lacking, it is not possible to calculate numerical estimates of these criteria.

We are maintaining the witch flounder SDCs put in place in Amendment 16, until the criteria can be replaced by suitable SDCs, or reference points from a model-based assessment. The rejection of the assessment models left insufficient time to fully develop replacement SDCs or proxies in this action. As discussed in the assessment summary report, the witch flounder age-structured model assessments, while scientifically well thought out, had issues that led the peer review panel to conclude that they should not be used for management or stock status determination purposes. The assessment working group developed the swept-area biomass approach as part of its deliberations, and the peer review panel ultimately recommended that alternative approach for catch advice. The peer review panel focused the majority of its review on the age-structured models for witch flounder. The panel did not have time to fully review the swept-area biomass approach under the assessment terms of reference, which include the update or redefinition of status determination criteria or proxies.

We agree with the Council that we cannot establish new SDCs for witch flounder as part of the 2017 Groundfish Operational Assessments. Developing SDCs is a lengthy process best addressed as part of a benchmark assessment, or as part of a peer review process outside of the assessment cycle dedicated specifically to developing SDCs. We recognize that developing new SDCs for witch flounder may also be challenging because there is no longer an analytical stock assessment model to provide historical estimates of biomass, fishing mortality rates, or recruitment. There are unlikely to be benchmark assessments for the suite of groundfish stocks that now have either unknown or inappropriate SDCs. Given this, we will work with the Council to develop a plan for establishing new SDCs, including consideration of establishing simple SDCs, for example, an annual comparison of catch to the OFL to determine if overfishing is occurring.

Following the 2017 operational assessment updates, we will work with the Council to consider a standard protocol to apply in similar situations. For example, the FMP could specify that alternative, simplified criteria would automatically take the place of the model-based SDCs if groundfish assessments fail in the future, but would be replaced by model-based or other appropriate SDCs whenever they are available.

The NSC is incorrect regarding the Council's intent for changing the status determination criteria in Framework 56. The Environmental Assessment for Framework 56 describes that the preferred alternative would remove the existing status determination criteria, namely, F at 40 percent of maximum spawning potential, or the maximum fishing mortality threshold (MFMT), and ½ the target biomass associated with F at maximum spawning potential, or minimum stock size threshold (MSST). The criteria, and associated numerical estimates from the criteria, would instead be listed as unknown.

*Comment 3:* The New England Council commented that the witch flounder ABC should be a proxy for the OFL and provides one objective measure for stock status.

*Response:* In a January 13, 2017, memo to the SSC, the Groundfish PDT presented a number of candidate OFLs based on applying a range of exploitation rates in the swept-area biomass approach. However, the SSC recommended that the OFL was unknown, and determined that the result presented from swept-area biomass approach was appropriate as an ABC. The New England Council adopted the SSC's recommendation, and included an OFL of ''unknown'' in the final Framework 56 document submitted to us. If the Council intended for NMFS to use the ABC as a proxy for the OFL, it could have set the OFL at 878 mt, similar to the PDT recommendation, and then applied the Northeast Multispecies FMP's ABC control rule to derive a more conservative ABC.

The ABC cannot be an official proxy for the OFL. Nonetheless, as the Council suggests, in the absence of a specific OFL, the ABC and ACL can provide some measure to ensure that overfishing does not occur. An OFL represents the highest level of catch that will not result in overfishing for a given year. Despite the absence of a specific OFL in this action, there is still a level of fishing mortality between the exploitable stock biomass level estimate (roughly 14,500 mt) and the specified ABC level (878 mt) generated in the swept-area biomass approach, that represents the OFL. As noted below, the consistency of this ABC with past ABCs for this stock, along with the relatively conservative exploitation rate that the peer review panel and SSC selected to derive the ABC, support our approval of the ABC

recommendation and a temporarily unknown OFL for witch flounder and determination that it should provide sufficient protection to stock biomass in the near term.

The recommended ABC is based on a recent period of relatively stable, yet low, biomass from 2005 to the present. The 878-mt ABC is similar to witch flounder ABCs (and corresponding OFLs) set during this period of stability (2010 ABC = 944 mt; 2013–2015 ABC = 783 mt). In each of these years, total witch flounder catch was below the ACL. Based on the swept-area biomass approach, catch limits in this range appear to have maintained stock biomass throughout this recent period. In the temporary absence of an OFL, given recent catch data and estimated trends in stock biomass, we have determined that this ABC is a sufficient to prevent overfishing consistent with the National Standard 1 guidelines.

*Comment 4:* Though it was not the subject of this rulemaking, the NSC, the New England Council, and one private citizen opposed our updated stock status determination for witch flounder (to maintain its overfished status and that its overfishing status is unknown). The NSC and the New England Council supported a witch flounder stock status of unknown for both overfished and overfishing, as recommended by the peer review panel of the 2016 witch flounder benchmark assessment. Both commented that NMFS provided no meaningful analysis, measurable or objective application of qualitative information, or legally relevant values for target stock biomass levels to make an overfished determination for witch flounder. The New England Council pointed to our characterization of witch flounder stock biomass in the proposed rule (''. . . the stock is at historical low levels. '') as a misquotation of the benchmark assessment report (''. . . low historical levels . . .''), and noted that this changes the meaning of the discussion in the benchmark assessment. The Council noted that the assessment report indicates that while the survey biomass is low, survey biomass was lower in the early 1990s, and has shown some improvement in recent years. Finally, the private citizen expressed general confusion about stock status determinations, and questioned how we could determine that the overfishing status was unknown if we determined that the stock was overfished.

*Response:* Our determinations for overfished and overfishing status are separate from this action, and are based on definitions in the National Standard 1 guidelines. An overfished determination relates to stock biomass, and means that the population size is too small, while an overfishing determination relates to the rate of fish removal from a stock, and means that the annual rate of catch is too high. After taking into account the best scientific information available, NMFS makes the final determination of stock status, and is not bound by the recommendation of the peer review panel or the SSC. NMFS reviews and makes these determinations annually as part of its requirements to report on the status of U.S. fisheries. More information on this process can be found here: *http://www.nmfs.noaa.gov/sfa/fisheries_eco/status_of_fisheries/.*

As stated in the proposed rule, the witch flounder stock was previously listed as subject to overfishing and overfished. Despite the rejection of the recent stock assessments for stock status purposes and lack of numerical estimates of stock size, there is qualitative information in the assessment that supports continuing to list the status as overfished and temporarily changing the overfishing status from subject to overfishing to unknown. This approach is consistent with a previous determination for GB yellowtail flounder where, even in the absence of a stock assessment model, available data and fishery indicators suggested the stock was still in poor condition and in need of continued rebuilding efforts.

For witch flounder, there are indications that the stock is still in poor condition that support maintaining the overfished determination. As stated in the proposed rule, these indicators include long-term declines in stock size, a truncation of age structure in the fishery landings and survey catch data, and a reduction in the number of old fish in the population (Figures B3–B6 in the witch flounder assessment summary, available here: *https://www.nefsc.noaa.gov/publications/crd/crd1701/crd1701.pdf).*

We agree that text in the proposed rule regarding witch flounder stock biomass is different than that in the assessment report. In certain cases, the misquotation could have changed the meaning of the discussion concerning the nature of the level of catch. Notwithstanding this possibility, and despite some improvement in recent years, the current estimated stock biomass can be characterized as low among historical levels. Based on the results of the 2016 assessment, population biomass estimates declined 86 percent when comparing the 5-year average biomass from 1967–1971 to the 5-year average biomass from 2011–2015. Though the 2011–2015 average is not the lowest in the time series, this figure is low compared to historical levels, and supports our determination to maintain stock status as overfished despite our inability to compare current estimates of stock biomass to valid reference points. Unlike the overfished status, for which we have reliable indicators of stock condition, we do not have reliable estimates for the overfishing status in the short term. Because a stock assessment model is lacking, numerical estimates of fishing mortality are not available to compare to the overfishing status criterion for stock. As a result, we determined that the overfishing status relative to the existing SDC is not currently possible, and that the overfishing status is unknown. However, while numerical estimates of fishing mortality and an absolute value for the OFL are not available, catch limits must be set with a sufficient probability of preventing overfishing. For witch flounder, catch for the last five years has been below the ACL, and has remained stable. As a result, and for other reasons discussed elsewhere in this preamble, we determined that the Council's recommended ABC is a sufficient limit for preventing overfishing in the temporary absence of an OFL, consistent with National Standard 1 guidelines.

Fishing Year 2017 Shared U.S./Canada Quotas, and Other Catch Limits

*Comment 5:* The NSC opposed the catch limits for GB yellowtail flounder and GB cod because these low catch limits threaten the viability of the scallop and groundfish fisheries and access to other U.S. managed stocks in the Eastern U.S./Canada Area. The NSC expressed concern that the Transboundary Resources Assessment Committee (TRAC) assessment did not adequately incorporate new information, including new catchability studies and changes to swept-area biomass calculations, that could increase the stock biomass estimates and catch limits.

*Response:* A number of ongoing studies relative to survey catchability were briefly discussed at the 2016 TRAC assessment for GB yellowtail flounder. This preliminary information suggested that survey catchability may be different than the current assumption used in the assessment. However, the TRAC concluded it was necessary to conduct additional analyses to determine a new value for survey catchability. As a result, this issue was included as a Term of Reference for the 2017 TRAC assessment, and the TRAC plans to consider recent catchability studies,

along with potential changes to the catchability assumptions used in the 2017 assessment. Additionally, although the 2016 TRAC concluded additional analysis was necessary, it recognized the uncertainty associated with the current catchability assumption, and conducted a sensitivity analysis to explore the impact of different values of survey catchability on the assessment. As the NSC noted in its comment, the analysis indicated that as survey catchability decreases, estimated biomass increases. However, as survey catchability decreases, the relative exploitation rate also decreases. Applying these lower exploitation rates then produces similar catch advice to the advice generated based on the current survey catchability assumption. Based on this analysis, the TRAC concluded that despite uncertainty in survey catchability, its catch advice would be the same regardless of the survey catchability assumed in the assessment.

Furthermore, the 2016 TRAC assessment noted a number of other factors that indicate GB yellowtail flounder is in poor condition. There is a continued declining trend in survey biomass in recent years despite historically low catch. Although recent catch is low, information indicates that there is still high total mortality on the stock, along with poor recruitment and productivity. Based on the poor condition of the stock, the TRAC and the Council's SSC have continued to recommend maintaining the quota as low as possible, while recognizing that fishery catch does not appear to be driving stock decline, and balancing the need to achieve optimum yield in other fisheries, including the scallop fishery.

*Comment 6:* The NSC commented that, when new information indicates a stock size is significantly larger than previously estimated, the choice of exploitation rate should be a policy decision for the Council, as opposed to a decision made through the stock assessment process.

*Response:* For stocks such as GB yellowtail flounder and witch flounder, for which a stock assessment model is lacking, catch advice is typically generated by applying an exploitation rate to estimates of biomass from resource surveys. In some cases, the assessment results may indicate a range of exploitation rates that may be an appropriate scientific basis for generating catch advice based on analysis conducted in the assessment and consideration of factors such as historical exploitation rates or other stock indicators. The Council's SSC considers the final peer reviewed assessment and makes OFL and ABC recommendations to the Council after determining the information in the assessment meets the guidelines for best scientific information available. In developing catch advice, the SSC would consider the most appropriate exploitation rate, based on the assessment results, that will result in catch levels that prevent overfishing. The SSC also considers additional Magnuson-Stevens Act requirements to achieve optimum yield and minimize economic impacts to the extent practicable. Once the SSC has recommended an ABC, the Council develops catch limits, but cannot exceed the SSC's ABC recommendation. In theory, once the appropriate exploitation rate necessary to prevent overfishing is selected, there are multiple opportunities for the SSC and the Council to provide additional input on the choice of an exploitation rate based on Council policies and other management considerations.

*Comment 7:* The NSC supported the proposed witch flounder catch limits, but commented that the catch limit, and the exploitation rate used to derive the catch limit in the swept-area biomass approach, were very conservative. MCFA also supported the proposed witch flounder catch limit, and commented that the previous lower catch limits constrained fishing on more abundant stocks and created economic incentives to avoid landing witch flounder.

*Response:* We are adopting the witch flounder catch limits proposed by the Council. We do not view the exploitation rate recommended by the SSC as overly conservative. The exploitation rate is derived from a period of relative stability in estimated witch flounder abundance. Given the uncertainty around witch flounder stock status, we have determined that the exploitation rate, and the corresponding ABC, are appropriate to prevent overfishing for this stock. Further, the 2017 witch flounder ABC is a 91-percent increase over the 2016 ABC. We expect this substantial increase from the 2016 ABC will provide additional flexibility and fishing opportunities for the groundfish fishery.

*Comment 8:* The NSC supported maintaining the values for the other and state waters sub-components for all stocks until the Council is able to conduct additional analysis and policy development.

*Response:* Consistent with the Council's recommendations, this action maintains the existing state and other sub-component amounts for dividing the ABC among various components of the fishery. In developing Framework 56, consistent with the process outlined in Amendment 16, the Groundfish PDT recommended changes to the 2017 and 2018 state waters and other sub-component values for all groundfish stocks. The PDT's recommendations were based on recent catch information, expected ACL changes, and management measures for 2016 and 2017, stock abundance and availability, and other information. The Council considered the PDT's recommendations, but decided to only make changes to the sub-component values for witch flounder and northern windowpane flounder to align these values with measures in Framework 56. For all other stocks, the Council maintained the 2017 and 2018 sub-component values adopted last year in Framework 55, which specified 2017 and 2018 ACLs. Instead, the Council listed review of groundfish catch in other fisheries, including a review of the process used to set the state water and other sub-components, as a priority for 2017. We expect the Groundfish PDT will develop an updated approach for specifying the sub-component values as part of Framework 57.

*Comment 9:* The New England Council identified an error in the Cape Cod/Gulf of Maine yellowtail flounder OFL in Table 2 the proposed rule. The value should be 900 mt, not 7,900 mt.

*Response:* We have corrected this error in Table 2 under section ''4. Catch Limits for Fishing Years 2017–2019.''

*Comment 10:* The Council also identified a transcription error for the total ACL for GB haddock in 2017 and 2018 in its Environmental Assessment for Framework 56. The values should be 54,568 mt in 2017 and 74,058 mt in 2018, as in the Proposed Rule in Table 3 (pp. 28452) and Table 4 (pp. 28453).

*Response:* The Council submitted a corrected version of the Environmental Assessment, which we have made available with this final rule. This error did not change the results of the analysis. Information on how to access the finalized version of the Environmental Assessment is included under the **ADDRESSES** section.

Revised Trigger for Scallop Accountability Measures

*Comment 11:* The NSC supported revising the trigger for scallop AMs for GB yellowtail flounder and northern windowpane flounder.

*Response:* We agree, and are implementing this measure as recommended by the Council.

*Comment 12:* The Council clarified its intent that the revised trigger for scallop AMs for GB yellowtail flounder and

northern windowpane flounder measures is a temporary change for fishing years 2017 and 2018 only, and that the underlying scallop AM implementation threshold will apply for evaluating overages in fishing year 2019 and beyond. The proposed rule incorrectly stated that the Council would evaluate the provision after 2018 to ensure the threshold was effectively constraining both scallop fishery catch and total mortality.

*Response:* We clarified the Council's intent in our description of the approved measure under section ''6. Revised Trigger for Scallop Accountability Measures.'' We note that the regulatory text in the proposed rule was clear that the threshold for implementing AMs for these stocks would revert to the previous policy in fishing year 2019.

GB Haddock Allocation for the Midwater Trawl Fishery

*Comment 13:* MCFA opposed the increase to the midwater trawl GB haddock catch limit, and instead supported maintaining the catch limit at the status quo level of 1 percent of the U.S. ABC. The MCFA commented that increasing the GB haddock allocation for a fishery with low accountability undermines conservation measures for the groundfish fishery. The MCFA also noted that, by allowing an increase in bycatch, more juvenile haddock will be caught as bycatch than at any other time in our recorded history.

*Response:* We are approving the recommended increase for the midwater trawl GB haddock catch limit. In evaluating this increase, we considered several competing mandates and considerations outlined in the Magnuson-Stevens Act. This included considering National Standard 1, which requires that FMPs prevent overfishing while achieving optimum yield; National Standard 8, which requires the consideration of the importance of the fisheries to communities and, to the extent practicable, minimize adverse impacts to these communities; and National Standard 9, which requires an FMP to reduce bycatch, to the extent practicable. As discussed in the Framework 46 final rule (September 15, 2011; 76 FR 56985), a rule that previously increased the midwater trawl GB haddock catch limit from 0.2 percent to 1 percent of the U.S. ABC, and supported by the Environmental Assessment for Framework 56, the recommended increase represents an acceptable balance of these standards. This measure increases the opportunity for the herring fishery to achieve optimum yield, while still preventing overfishing, and with no adverse impact to the health of the herring or haddock stocks.

Though the Council recommended increasing the catch limit for 2017 and 2018, it also established a process to re-evaluate this limit in future years, in concert with the assessment cycle, and specified that the catch limit can adjust as low as the status quo level of 1 percent, and as high as 2 percent. This review provides continued opportunities to evaluate this measure in light of any changes to the status of GB haddock or changes to the operation of the midwater trawl and groundfish fisheries.

The Council's analysis in the Framework 56 EA acknowledges that some portion of the catch caught by the mid-water trawl fishery would be immature (*i.e.,* pre-spawning age), as is the case now with the status quo allocation. However, the analysis notes that midwater trawl fishery catches in the range of 1 to 2 percent of the U.S. ABC would be a low risk to the GB haddock stock given the recent assessment findings that the stock is at record high biomass levels. The EA concluded that increasing the midwater trawl GB haddock catch cap up to 2 percent is likely to result in similar biological impacts to maintaining the catch cap at 1 percent. At the 1-percent level, the catch cap provides positive benefits to the GB haddock stock, compared to having no cap in place for the midwater trawl fishery, because it constrains midwater trawl fishery catch. Increasing the catch cap up to 2 percent should continue to provide positive benefits for the GB haddock stock particularly given the current abundance of the stock, and the wide gap between the total ACL and total catch (between 1 and 35 percent of total ACL from 2010–2015).

Recently, groundfish closed area restrictions for the midwater trawl fleet resulted in high levels of observer coverage (above roughly 30 percent coverage). Given the way observer coverage levels are set based on the groundfish closed area restrictions and the Standardized Bycatch Reporting Methodology (SBRM), there are times when observer coverage for the midwater trawl fleet has exceeded roughly 40 percent. In addition, the New England Council has been working in recent years to increase monitoring coverage for the herring fishery, and recently adopted an industry-funded monitoring program for vessels fishing with midwater trawl gear. In April 2017, the New England Council took final action on the Industry-funded Monitoring Amendment and recommended a 50-percent coverage target for the majority of midwater trawl vessels. We will begin the rulemaking process for the Industry-funded Monitoring Amendment in late 2017.

Further, the midwater trawl fleet is subject to an in-season closure of the directed herring fishery in the GB haddock AM area when the haddock catch cap is reached, as well as a pound-for-pound payback for any overages. During the 2015 fishing year, the midwater trawl fishery caught all of its allocation of GB haddock by October 22, 2015, and was subject to the AM until April 30, 2016. This possession restriction resulted in an estimated loss of $1.8 million in herring revenue during this time period. These AMs create a strong disincentive for the midwater trawl fleet to exceed its GB haddock catch limit, and, along with the New England Council's efforts to improve monitoring for this fishery, provide appropriate levels of accountability for the midwater trawl fishery. For all of these reasons, increasing the GB haddock catch cap meets the goal to achieve optimum yield and full utilization from the catch of herring, to promote the utilization of the resource in a manner which maximizes social and economic benefits to the nation, all while taking into account the protection of marine ecosystems including minimizing bycatch to the extent practicable.

*Comment 14:* Regarding the process for reviewing the GB haddock midwater trawl catch limit, the New England Council clarified that it could also consider other factors in addition to those listed in the preamble to the proposed rule.

*Response:* We agree with the Council's comment, and have clarified in our description of the approved measure under section ''7. Increase to Georges Bank Haddock Allocation for the Midwater Trawl Fishery'' that the review should consider factors including, *but not limited to,* groundfish fishery catch performance, utilization, status of the GB haddock resource, recruitment, incoming year-class strength, and the variability in the GB haddock incidental catch estimates for the Atlantic herring midwater trawl fishery. We note that the regulatory text in the proposed rule was clear that other factors could be considered.

Sector Measures for Fishing Year 2017

*Comment 15:* The NSC echoed the Northeast Sector Service Network's (NSSN) comments on the sector measures approved in the Fishing Year 2017 and 2018 Sector Operations Plans Interim Final Rule (82 FR 19618; April

28, 2017). NSSN's comment highlighted the difficulties posed by the delay in the Framework 56 rulemaking, including difficulties communicating temporary catch limits, and managing sector fishing activity, while the temporary catch limits are in place. The NSSN noted that it requested proactive discussions regarding temporary catch limits well in advance of the start of the fishing year, but that NMFS failed to provide complete information about the temporary limits until the final month before the start of the fishing year on May 1, 2017. The NSSN encouraged NMFS to adopt more proactive steps to ensure information about default measures is available well in advance of the fishing year.

*Response:* The timing of the witch flounder assessment, as well as having 2017 catch limits for 18 of the 20 stocks, and default measures for the remaining 2 stocks, delayed the rulemaking process for Framework 56. Throughout development of Framework 56, the Groundfish PDT and NMFS cautioned that incorporating the witch flounder assessment results would likely mean that Framework 56 would not be finalized in time for the start of the 2017 fishing year. Additionally, the Council did not submit Framework 56 to us for review until April 13, 2017, or 2 weeks prior to the start of fishing year 2017. On average, once the Council submits a framework action to us for review, it takes approximately 6 months to complete review of the document, as well as proposed and final rulemaking, and implement final approved measures.

Given the anticipated delays in the Framework 56 rulemaking, in advance of May 1, 2017, we provided sectors with data on both the status quo/default measures and a detailed description on the catch limits that would change if Framework 56 was approved. We recognize and agree that this situation was difficult to communicate and manage. In light of this year and in preparation for Framework 57, which will include 2018–2020 catch limits for all groundfish stocks based on the fall 2017 operational assessments, we will work with the Council and sectors to avoid a situation similar to what occurred this year.

2017 Northern Windowpane Flounder AM

*Comment 16:* The New England Council and the NSC opposed implementing the northern windowpane flounder AM area for groundfish vessels in response to the 2015 overage. Both stated that triggering the AM would be purely punitive because: (1) Despite the total ACL overage, the groundfish fishery only caught 75 percent of its sub-ACL in 2015; and (2) the Council addressed the operational issue that contributed to the 2015 and past overages by creating a scallop fishery sub-ACL in Framework 56. The commenters also cited the Framework 52 analysis, which estimated the economic impacts of the windowpane flounder AMs on the groundfish fishery averaged nearly $11 million from 2010–2012.

*Response:* We are approving the scallop fishery sub-ACL for northern windowpane flounder, and agree that this provision addresses an operational issue that contributed to ACL overages. Although scallop fishery catches contributed to a 2015 ACL overage, the regulations implementing the Northeast Multispecies FMP require us to trigger the groundfish fishery AM as a result of the overage. As a result, the groundfish fishery AM for northern windowpane flounder will be effective beginning August 1, 2017.

We are able to remove the northern windowpane flounder AM for the groundfish fishery for reasons unrelated to approval of the scallop fishery sub-ACL. As described elsewhere in this preamble, preliminary 2016 catch estimates indicate that total northern windowpane flounder catch was below the ACL. The regulations allow us to remove windowpane flounder AMs if catch is below the ACL in the year after an overage. Though the groundfish fishery will still be subject to the northern windowpane flounder AM temporarily, the expected economic impacts of the AM are greatly diminished by the limited timeframe the AM will be in effect.

2017 Southern Windowpane Flounder AM

*Comment 17:* The Mid-Atlantic Council and NSC opposed implementing the southern windowpane flounder AM areas. The Mid-Atlantic Council requested that we use any and all remediation methods available to exempt fisheries from the AM for one year. In support of its request, the Mid-Atlantic Council pointed to the apparent lack of biological consequences from past southern windowpane flounder ACL overages, as well as the potential negative economic impacts of the AMs on the summer flounder and scup fisheries. The NSC recommended that NMFS and the Councils should pursue short- and long-term solutions to this issue, including expedited processes to reduce catches, gear modifications, reassessment of the stock, and ecosystem component designation. To offer additional support for not implementing the southern windowpane flounder AM, the New England Council commented that it took action in Framework 48 to address the operational issues that contributed to southern windowpane flounder overages by creating sub-ACLs and AMs for both the scallop and non-groundfish fisheries.

*Response:* Regulations put in place in Framework 52 authorize us to remove the southern windowpane flounder AM for the groundfish fishery. Our preliminary 2016 catch estimate indicates that total southern windowpane flounder catch was below the ACL. The regulations allow us to remove windowpane flounder AMs if catch is below the ACL in the year after an overage. Though the groundfish fishery will still be subject to the southern windowpane flounder AM temporarily, the expected economic impacts of the AM are greatly diminished by the limited timeframe the AM will be in effect.

As described elsewhere in this preamble, the Council only developed measures in Framework 52 to reduce the size and duration of the windowpane flounder AMs for groundfish vessels. These provisions do not apply to the non-groundfish trawl vessels, including the summer flounder and scup fisheries, that are also subject to the AMs. Based on the updated 2016 catch information, we are considering an emergency action to extend the Framework 52 provision to reduce the duration of the AM to all trawl vessels.

We agree with the NSC that the Councils, should pursue changes to southern windowpane flounder management that prevent overfishing while mitigating economic impacts to Greater Atlantic Region fisheries. Both Councils are currently advancing several actions to this end. The New England Council's Research Steering Committee recently recommended approving using the large-mesh belly panel trawl as a selective gear type that can be used when the southern windowpane flounder AM is triggered. This gear type demonstrated a reduction in southern windowpane flounder without a reduction in scup catch. The Council is conducting additional analysis to determine if this gear meets the standards for selective gear, and if so, would formally recommend approval of this gear type to NMFS. As described elsewhere in this preamble, the New England and Mid-Atlantic Councils also are working to analyze revisions to the large-mesh non-groundfish fishery AMs in Framework

57. Last, through the Groundfish PDT and in response to inquiries from the Councils, we provided advice that southern windowpane flounder may be a candidate for re-designation as an ecosystem component species, and that this issue should be further explored. Re-designation would require an amendment to the Northeast Multispecies FMP, and possibly to other Greater Atlantic Region FMPs.

Finally, we agree with the New England Council's comment that, by creating sub-ACLs and AMs for all fisheries responsible for a substantial share of southern windowpane flounder catch, it addressed the operational issues that contributed to past overages. However, similar to northern windowpane flounder, this does not remove the requirement that we implement the southern windowpane flounder AM in response to the 2015 overage. This argument lends even less support for removing the 2017 AM for southern windowpane flounder than northern windowpane flounder. Unlike northern windowpane flounder, where the groundfish fishery is subject to an AM in spite of maintaining 2015 catch below its sub-ACL, all fisheries with sub-ACLs (groundfish, scallop, and non-groundfish) exceeded their 2015 sub-ACLs for southern windowpane flounder in 2015. This means that the groundfish, scallop, and non-groundfish fisheries should each bear responsibility for the overage under an AM.

Changes From the Proposed Rule

This final rule contains a number of minor adjustments from the proposed rule.

We corrected a typographical error in the 2018 Cape Cod/Gulf of Maine yellowtail flounder OFL. The proposed rule incorrectly listed the OFL as 7,900 mt instead of 900 mt. We also clarified our descriptions of the revised trigger for scallop fishery accountability measures, and the increase to the GB haddock allocation for the midwater trawl fishery, based on comments from the New England Council (see Comments 12 and 14).

In addition to adjusting the common pool trip limit for witch flounder, we are also adjusting the common pool trip limit for American plaice. Witch flounder and American plaice are caught together, and because we are increasing the witch flounder trip limit, we are reducing the American plaice trip limit to slow catch of American plaice. This will avoid early closures for the common pool fishery and help prevent overages.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

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

This final rule does not contain policies with Federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Assistant Administrator for Fisheries finds good cause, under 5 U.S.C. 553(d)(3), to waive the 30-day delayed effectiveness of this action. This action sets 2017 catch limits for 4 of the 20 groundfish stocks, and adopts several other measures to improve the management of the groundfish fishery. This final rule must be in effect by August 1, 2017, to fully capture the conservation and economic benefits of Framework 56 and sector administrative measures.

This rulemaking incorporates information from updated benchmark stock assessment for witch flounder. The development of Framework 56 was timed to incorporate the results of this assessment, which was finalized in December 2016. Council action and analysis were not complete until April 2017. The groundfish fishing years began on May 1, 2017, but given the late timing of the benchmark assessment and Council process, we were unable to publish a proposed rule for Framework 56 until June 22, 2017. The regulations allow us to implement default groundfish specifications equal to 35 percent of the previous year's catch limits in the event that the rulemaking process is delayed beyond the start of the fishing year. However, the regulations also specify that the default specifications expire after July 31, 2017. Once the default catch limits expire, any groundfish stock areas with stocks that do not have specified catch limits are closed to fishing activity. In order to have this action effective by August 1, 2017, the date by which default specifications expire, it is necessary to waive the 30-day delayed effectiveness of this rule.

Default groundfish specifications are currently in place for the Eastern GB cod and GB yellowtail stocks, and vessels have already restricted their fishing effort in the Eastern U.S./Canada area in response to the temporarily reduced catch limits for these stocks. A further delay in the implementation of 2017 catch limits for these stocks would mean that there are no catch limits in place for the Eastern U.S./Canada area, which would require us to close the Eastern U.S./Canada area until the final rule is published. This would result in direct economic loss for the groundfish fleet.

The groundfish fishery already faced substantial catch limit reductions for many key groundfish stocks over the past 6 years. Any further disruption to the fishery that would result from a delay in this final rule could create severe economic impacts to the groundfish fishery. Overall, this rule is not expected to have significant economic impacts on a substantial number of small entities if it is implemented on time. However, the negative economic impacts of implementing the default catch limits expiring on August 1 would diminish the benefits of these specifications and other approved measures. For these reasons, a 30-day delay in the effectiveness of this rule is impracticable and contrary to the public interest.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period for adjusting the American plaice trip limit because it would be impracticable and contrary to the public interest.

The regulations at § 648.86(o) authorize the Regional Administrator to adjust the Northeast multispecies possession and trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool quotas. The common possession and trip limits implemented through this action help to ensure that the Northeast multispecies common pool fishery may achieve the optimum yield (OY) for the relevant stocks, while controlling catch to help prevent inseason closures or quota overages. This action adjusts the common pool trip limit for American plaice related to changes in the common pool trip limit for witch flounder. Witch flounder and American place are caught together, and because we are increasing the witch flounder trip limit, we are reducing the American plaice trip limit to slow the catch of American plaice. If we increase the trip limit for witch

flounder without decreasing the trip limit for American plaice, American plaice catch will accelerate, which will likely lead to early closure of a trimester and quota overages. Any overage of catch must be deducted from the Trimester 3 quota, which could substantially disrupt the trimester structure and intent to distribute the fishery across the entire fishing year. An overage reduction in Trimester 3 would further reduce fishing opportunities for common pool vessels and likely result in early closure of Trimester 3. This would undermine management objectives of the Northeast Multispecies Fishery Management Plan and cause unnecessary negative economic impacts to the common pool fishery.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this 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 was not required and none was prepared.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 26, 2017.

**Samuel D. Rauch III,**

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

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.80, revise paragraphs (g)(1) and (g)(2)(i) to read as follows:

### § 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(g) *Restrictions on gear and methods of fishing*—(1) *Net obstruction or constriction.* Except as provided in paragraph (g)(5) of this section, a fishing vessel subject to minimum mesh size restrictions shall not use, or attach any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. ''The top of the trawl net'' means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

(2) *Net obstruction or constriction.* (i) Except as provided in paragraph (g)(5) of this section, a fishing vessel may not use, or attach, any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (g)(1), subject to minimum mesh size restrictions, as defined in paragraph (g)(1) of this section, if it obstructs the meshes of the net in any manner.

* * * * *

### § 648.85 [Amended]

■ 3. In § 648.85, remove paragraph (d) and redesignate paragraph (e) as new paragraph (d).

### § 648.86 [Amended]

■ 4. In the table below, for each paragraph in the left column, remove the text from whenever it appears throughout the paragraph and add the text indicated in the right column.

| Paragraph | Remove | Add | Frequency |
|---|---|---|---|
| § 648.86(a)(3)(ii)(A)*(1)* | § 648.85(d) | § 648.90(a)(4)(iii)(D) | 1 |
| § 648.86(a)(3)(ii)(A)*(4)* | § 648.85(d) | § 648.90(a)(4)(iii)(D) | 1 |

■ 5. In § 648.90:

■ a. Revise paragraphs (a)(4)(iii)(D) and (E), and paragraph (a)(5)(i)(D)(*1*);

■ b. Add paragraph (a)(5)(i)(D)(*4*);

■ c. Amend paragraph (a)(5)(iii) by removing ''§ 648.85(d)'' and adding ''§ 648.90(a)(4)(iii)(D)'' in its place;

■ d. Revise paragraph (a)(5)(iv).

The additions and revisions read as follows:

### § 648.90 NE multispecies assessment, framework procedures, and specifications, and flexible area action system.

* * * * *

(a) * * *

(4) * * *

(iii) * * *

(D) *Haddock catch by the midwater trawl Atlantic herring fishery. (1) Sub-ACL values.* The midwater trawl Atlantic herring fishery will be allocated sub-ACLs equal to 1 percent of the GOM haddock ABC, and 1.5 percent of the GB haddock ABC (U.S. share only), pursuant to the restrictions in § 648.86(a)(3). The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section. For the purposes of these sub-ACLs, the midwater trawl Atlantic herring fishery includes vessels issued a Federal Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3).

*(2) GB haddock sub-ACL Review.* Following an assessment of the total GB haddock stock, the Groundfish PDT will conduct a review of the sub-ACL and recommend to the Groundfish Committee and Council a sub-ACL for the midwater trawl Atlantic herring fishery of 1 and up to 2 percent of the GB haddock U.S. ABC. The sub-ACL review should consider factors including, but not limited to, groundfish fishery catch performance, expected groundfish fishery utilization of the GB haddock ACL, status of the GB haddock resource, recruitment, incoming year-class strength, and evaluation of the coefficient of variation of the GB haddock incidental catch estimates for the midwater trawl Atlantic herring fishery.

(E) *Windowpane flounder catch by the Atlantic sea scallop fishery.* The Atlantic sea scallop fishery, as defined in subpart D of this part, will be allocated sub-ACLs equaling 21 percent of the northern windowpane flounder ABC and 36 percent of the southern windowpane flounder ABC. The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section.

* * * * *

(5) * * *

(i) * * *

(D) * * *

(*1*) *Windowpane flounder.* Unless otherwise specified in paragraphs (a)(5)(i)(D)(*1*)(*i*) and (*ii*) of this section, if NMFS determines the total catch exceeds the overall ACL for either stock

of windowpane flounder, as described in this paragraph (a)(5)(i)(D)(*1*), by any amount greater than the management uncertainty buffer up to 20 percent greater than the overall ACL, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. If the overall ACL is exceeded by more than 20 percent, the applicable large AM areas(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). If an overage of the overall ACL for southern windowpane flounder is a result of an overage of the sub-ACL allocated to exempted fisheries pursuant to paragraph (a)(4)(iii)(F) of this section, the applicable AM area(s) shall be in effect for any trawl vessel fishing with a codend mesh size of greater than or equal to 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3). If an overage of the overall ACL for southern windowpane flounder is a result of an overage of the sub-ACL allocated to the groundfish fishery pursuant to paragraph (a)(4)(iii)(H)(*2*) of this section, the applicable AM area(s) shall be in effect for any limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip. If an overage of the overall ACL for southern windowpane flounder is a result of overages of both the groundfish fishery and exempted fishery sub-ACLs, the applicable AM area(s) shall be in effect for both the groundfish fishery and exempted fisheries. If a sub-ACL for either stock of windowpane flounder is allocated to another fishery, consistent with the process specified at paragraph (a)(4) of this section, and there are AMs for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.,* the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to paragraph (a)(5) of this section exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

| Point | N. latitude | W. longitude |
|---|---|---|
| **Northern Windowpane Flounder and Ocean Pout Small AM Area** | | |
| 1 | 41°10′ | 67°40′ |
| 2 | 41°10′ | 67°20′ |
| 3 | 41°00′ | 67°20′ |
| 4 | 41°00′ | 67°00′ |
| 5 | 40°50′ | 67°00′ |
| 6 | 40°50′ | 67°40′ |
| 1 | 41°10′ | 67°40′ |
| **Northern Windowpane Flounder and Ocean Pout Large AM Area** | | |
| 1 | 42°10′ | 67°40′ |
| 2 | 42°10′ | 67°20′ |
| 3 | 41°00′ | 67°20′ |
| 4 | 41°00′ | 67°00′ |
| 5 | 40°50′ | 67°00′ |
| 6 | 40°50′ | 67°40′ |
| 1 | 42°10′ | 67°40′ |
| **Southern Windowpane Flounder and Ocean Pout Small AM Area** | | |
| 1 | 41°10′ | 71°30′ |
| 2 | 41°10′ | 71°20′ |
| 3 | 40°50′ | 71°20′ |
| 4 | 40°50′ | 71°30′ |
| 1 | 41°10′ | 71°30′ |
| **Southern Windowpane Flounder and Ocean Pout Small Large AM Area 1** | | |
| 1 | 41°10′ | 71°50′ |
| 2 | 41°10′ | 71°10′ |
| 3 | 41°00′ | 71°10′ |
| 4 | 41°00′ | 71°20′ |
| 5 | 40°50′ | 71°20′ |
| 6 | 40°50′ | 71°50′ |
| 1 | 41°10′ | 71°50′ |
| **Southern Windowpane Flounder and Ocean Pout Large AM Area 2** | | |
| 1 | (1) | 73°30′ |
| 2 | 40°30′ | 73°30′ |
| 3 | 40°30′ | 73°50′ |
| 4 | 40°20′ | 73°50′ |
| 5 | 40°20′ | (2) |
| 6 | (3) | 73°58.5′ |
| 7 | (4) | 73°58.5′ |
| 8 | [5] 40°32.6′ | [5] 73°56.4′ |
| 1 | (1) | 73°30′ |

[1] The southernmost coastline of Long Island, NY, at 73°30′ W. longitude.

[2] The easternmost coastline of NJ at 40°20′ N. latitude, then northward along the NJ coastline to Point 6.

[3] The northernmost coastline of NJ at 73°58.5′ W. longitude.

[4] The southernmost coastline of Long Island, NY, at 73°58.5′ W. longitude.

[5] The approximate location of the southwest corner of the Rockaway Peninsula, Queens, NY, then eastward along the southernmost coastline of Long Island, NY (excluding South Oyster Bay), back to Point 1.

(*i*) *Reducing the size of an AM.* If the overall northern or southern windowpane flounder ACL is exceeded by more than 20 percent and NMFS determines that: The stock is rebuilt, and the biomass criterion, as defined by the Council, is greater than the most recent fishing year's catch, then only the respective small AM may be implemented as described in paragraph (a)(5)(i)(D)(*1*) of this section, consistent with the Administrative Procedure Act. This provision only applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip.

(*ii*) *Reducing the duration of an AM.* If the northern or southern windowpane flounder AM is implemented in the third fishing year following the year of an overage, as described in paragraph (a)(5)(i)(D) of this section, and NMFS subsequently determines that the applicable windowpane flounder ACL was not exceeded by any amount the year immediately after which the overage occurred (*i.e.,* the second year), on or after September 1 the AM can be removed once year-end data are complete. This reduced duration does not apply if NMFS determines during year 3 that a year 3 overage of the applicable windowpane flounder ACL has occurred. This provision only applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip.

* * * * *

*(4) Ocean pout.* Unless otherwise specified in paragraphs (a)(5)(i)(D)(*1*)(*i*) and (*ii*) of this section, if NMFS determines the total catch exceeds the overall ACL for ocean pout, as described in paragraph (a)(5)(i)(D)(*1*) of this section, by any amount greater than the management uncertainty buffer up to 20 percent greater than the overall ACL, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. If the overall ACL is exceeded by more than 20 percent, large AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. The AM areas for ocean pout are defined in paragraph (a)(5)(i)(D)(*1*) of this section, connected in the order listed by rhumb lines, unless otherwise noted. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in

§ 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6).

* * * * *

(iv) *AMs if the sub-ACL for the Atlantic sea scallop fishery is exceeded.* At the end of the scallop fishing year, NMFS will evaluate whether Atlantic sea scallop fishery catch exceeded the sub-ACLs for any groundfish stocks allocated to the scallop fishery. On January 15, or when information is available to make an accurate projection, NMFS will also determine whether total catch exceeded the overall ACL for each stock allocated to the scallop fishery. When evaluating whether total catch exceeded the overall ACL, NMFS will add the maximum carryover available to sectors, as specified at § 648.87(b)(1)(i)(C), to the estimate of total catch for the pertinent stock.

(A) *Threshold for implementing the Atlantic sea scallop fishery AMs.* If scallop fishery catch exceeds the scallop fishery sub-ACLs for any groundfish stocks in paragraph (a)(4) of this section by 50 percent or more, or if scallop fishery catch exceeds the scallop fishery sub-ACL by any amount and total catch exceeds the overall ACL for a given stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations.

(B) *2017 and 2018 fishing year threshold for implementing the Atlantic sea scallop fishery AMs for GB yellowtail flounder and Northern windowpane flounder.* For the 2017 and 2018 fishing years only, if scallop fishery catch exceeds either GB yellowtail flounder or northern windowpane flounder sub-ACLs specified in paragraph (a)(4) of this section, and total catch exceeds the overall ACL for that stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations. For the 2019 fishing year and onward, the threshold for implementing scallop fishery AMs for GB yellowtail flounder and northern windowpane flounder will return to that listed in paragraph (a)(5)(iv)(A) of this section.

* * * * *

**§ 648.201 [Amended]**

■ 6. In § 648.201, amend paragraph (a)(2) by removing ''§ 648.85(d)'' and adding ''§ 648.90(a)(4)(iii)(D)'' in its place.

[FR Doc. 2017–16133 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 151211999–6343–02]**

**RIN 0648–XF586**

## Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Georges Bank Cod Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

**ACTION:** Temporary rule; area closure.

**SUMMARY:** This action closes the Georges Bank (GB) Cod Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear for the remainder of Trimester 1, through August 31, 2017. The closure is required by regulation because the common pool fishery is projected to have caught 90 percent of its Trimester 1 quota for GB cod. This closure is intended to prevent an overage of the common pool's quota for this stock.

**DATES:** This action is effective July 28, 2017, through August 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Claire Fitz-Gerald, Fishery Management Specialist, (978) 281–9255.

**SUPPLEMENTARY INFORMATION:** Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of July 27, 2017, the common pool fishery is projected to have caught approximately 90 percent of the Trimester 1 TAC (2.9 mt) for Georges Bank (GB) cod. Effective July 28, 2017, the GB Cod Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2017, to all common pool vessels fishing on a Northeast multispecies trip with trawl gear, sink gillnet gear, and longline/hook gear. The GB Cod Trimester TAC Area consists of statistical areas 521, 522, 525, and 561. The area reopens at the beginning of Trimester 2, on September 1, 2017.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to July 28, 2017, it may complete its trip within the Trimester TAC Area. A vessel that has set gillnet gear prior to July 28, 2017, may complete its trip by hauling such gear.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. If the common pool fishery exceeds its total quota for a stock in the 2017 fishing year, the overage must be deducted from the common pool's quota for that stock for fishing year 2018. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. However, any uncaught portion of the common pool's total annual quota may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool fishery is projected to have caught 90 percent of its Trimester 1 TAC for GB cod as of July 27, 2017. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GB Cod Trimester TAC Area. This increases the likelihood that the common pool fishery

will exceed its trimester or annual quota of GB cod to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Additionally, an overage of the trimester or annual common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.

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

Dated: July 27, 2017.

**Jennifer M. Wallace,**

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

[FR Doc. 2017–16176 Filed 7–28–17; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 160614521–7624–02]**

**RIN 0648–BF96**

## Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment to Regulations Implementing the Coastal Pelagic Species Fishery Management Plan; Change to Pacific Mackerel Management Cycle From Annual to Biennial

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

**ACTION:** Final rule.

**SUMMARY:** The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) states that each year the Secretary will publish in the **Federal Register** the final specifications for all stocks in the actively managed stock category, which includes Pacific mackerel. NMFS is changing the management framework for Pacific mackerel so specifications will be set biennially instead of on an annual basis. The purpose of this change is to reduce the costs, while providing frequent enough reevaluation and adjustment in the specifications to manage and conserve Pacific mackerel.

**DATES:** Effective August 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034, *Joshua.Lindsay@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** NMFS manages the Pacific mackerel fishery in the U.S. Exclusive Economic Zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the CPS FMP. The CPS FMP states that each year the Secretary will publish in the **Federal Register** the specifications for all stocks in the actively managed stock category, which includes Pacific mackerel. In 2013, the Pacific Fishery Management Council (Council) recommended that the harvest specification process for Pacific mackerel move from a 1-year management cycle to a 2-year management cycle beginning in 2015. The Council recommended this revision to the management cycle under the CPS FMP's framework mechanism, which allows such changes by rulemaking without formally amending the fishery management plan itself. NMFS published separate annual specifications for Pacific mackerel for the 2015–16 and the 2016–17 fishing seasons to keep pace with the schedule of the fishery, and is now changing the annual notice requirement under the framework mechanism of the CPS FMP. From now on, NMFS will implement 2 years of harvest specifications with one rulemaking, beginning with the 2017 fishing season.

The CPS FMP and its implementing regulations require NMFS to set annual catch levels for the Pacific mackerel fishery based on the annual specification framework and control rules in the CPS FMP. These control rules include the harvest guideline control rule, which in conjunction with the overfishing limit (OFL), acceptable biological catch (ABC) and annual catch limit (ACL) rules in the CPS FMP are used to manage harvest levels for Pacific mackerel, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Annual estimates of biomass are an explicit part of these various harvest control rules, therefore, annual stock assessments are currently conducted for Pacific mackerel to provide annual estimates of biomass. Then, during public meetings each year, the estimated biomass for Pacific mackerel from these assessments is presented to the Council's CPS Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel) and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fishery are reviewed and discussed. The biomass estimate is then presented to the Council along with recommendations and comments from the Team, Subpanel and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to NMFS. Based on these recommendations, NMFS implements these catch specifications for each fishing year and publishes the specifications annually. Over recent years, little new information has been available for informing Pacific mackerel stock assessments from one year to the next. Therefore, stock assessment scientists at the Southwest Fisheries Science Center (SWFSC), along with the SSC, concluded that conducting stock assessments annually is not necessary to manage Pacific mackerel sustainably; conducting assessments every 2 years can provide the necessary scientific information to continue to manage the stock sustainably. Annual landings of Pacific mackerel have also remained at historically low levels with landings averaging 5,000 mt over the last 10 years, well below the annual quotas over this time period. This highlights that the biomass of this stock is not being greatly impacted by fishing pressure. Low landings since 2011 are also one of the limitations of the recent stock assessments because they result in limited fishery-dependent sample information for use in the stock assessment. Based on this information, and in light of the monetary and personnel costs associated with conducting and reviewing each stock assessment as well as adopting specifications each year, the Council established a new Pacific mackerel management and assessment schedule under which full stock assessments would be conducted every 4 years, and in the second year of each cycle, the assessment will be updated using catch-only projection estimates. Each of these assessments would provide the biomass estimate for the current year as well as a projection of what the biomass will be in the following year. Those biomass estimates would then be used in the harvest control rules for Pacific mackerel, which the Council would use to provide NMFS with recommendations for the OFL, ABC and ACL for the following 2 years.

This final rule changes the review and implementation schedule for setting Pacific mackerel harvest specifications, allowing NMFS to implement 2 years of catch specifications with a single notice and comment rulemaking. Reviewing biomass estimates and implementing catch specifications for 2 years at a time instead of 1 allows NMFS and the Council to use available time and resources in a more efficient manner, while still preserving the conservation and management goals of the CPS FMP, and using the best available science.

NMFS will set biennial specifications from the 2017 fishing season forward in the Code of Federal Regulations.

The proposed rule stated that this rulemaking would change the review and implementation schedule for Pacific mackerel, *and* the stock assessment cycle. That was an error: NMFS did not intend to propose to change the stock assessment cycle by rulemaking, as the Council already acted on that change. The action by this rule is only to allow the agency to implement 2 separate years of harvest specifications through a single notice and comment rulemaking process.

On January 4, 2017, a proposed rule was published for this action and public comments solicited (82 FR 812) with a comment period that ended on February 3, 2017. NMFS received three comments regarding the amendment to change Pacific mackerel specifications to be set biennially instead of on an annual basis. No changes were made in response to the comments received. NMFS summarizes and responds to those comments below.

**Comments and Responses**

*Comment 1:* Two of the comments voiced a similar concern that, in moving from an annual stock assessment process to a biennial process, the harvest specifications would not be based on the best possible information. One commenter stated that keeping the current system of setting management specifications every year would provide better information to manage Pacific mackerel and allow the agency to be better positioned if more rapid adjustments are needed to either protect against overfishing, while the second commenter was concerned that if the stock greatly increased during one of the interim assessment years, that the industry might endure a missed opportunity.

*Response:* As described above, based on recommendations from its SSC and scientists from the SWFSC, the Council has determined that *as a matter of practice* doing new stock assessments every year for Pacific mackerel was not providing significantly better information with which to manage the stock and prevent overfishing compared to the proposed approach. Based on this determination, the Council established a Pacific mackerel management and assessment schedule under which full stock assessments will be conducted every 4 years, and in the second year of each cycle the assessment will be updated using catch-only projection estimates. Each of these assessments would provide the biomass estimate for the current year as well as a projection of what the biomass will be in the following year. Those biomass estimates would then be used in the harvest control rules for Pacific mackerel and the Council provides NMFS with recommendations for the OFL, ABC and ACL for the following 2 years. The action being taken by NMFS through this rule is to allow the agency to implement those 2 separate years of harvest specifications through a single notice and comment rulemaking process. Additionally, this action does not change the control rules used to set the annual catch limits, including the ABC control rule under which scientific uncertainty in the OFL is considered in estimating ABC at a level that is intended to buffer against overfishing.

*Comment 2:* The California Department of Fish and Wildlife (CDFW) submitted a comment expressing general support for the proposed rule and streamlining the process for setting specifications for Pacific mackerel.

*Response:* CDFW is an important co-manager of CPS and NMFS appreciates its input. NMFS agrees with the CDFW that annual stock assessments are not necessary to manage Pacific mackerel sustainability. NMFS is supportive of the expanded efforts by CDFW to collect baseline biological and fishery data through their dockside sampling program to help inform ongoing and future assessment efforts of the various CPS stocks.

**Classification**

The Administrator, West Coast Region, NMFS, determined that the FMP Amendment to Regulations Implementing the CPS FMP; Change to Pacific Mackerel Management Cycle from Annual to Biennial is necessary for the conservation and management of the Pacific mackerel fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would 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 was not required and none was prepared.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 26, 2017.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS is amending 50 CFR part 660 as follows:

## PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.508, add paragraph (e) to read as follows:

**§ 660.508 Annual specifications.**

* * * * *

(e) *Pacific mackerel.* Every 2 years the Regional Administrator will determine, and publish in the **Federal Register**, harvest specifications for 2 consecutive fishing seasons for Pacific mackerel.

[FR Doc. 2017–16135 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 82, No. 146
Tuesday, August 1, 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.

## NATIONAL CAPITAL PLANNING COMMISSION

### 1 CFR Chapters IV and VI

### Freedom of Information Act Regulations

**AGENCY:** National Capital Planning Commission.

**ACTION:** Proposed rule

**SUMMARY:** The National Capital Planning Commission (NCPC or Commission) proposes to revise its current Freedom of Information Act (FOIA) Regulations. NCPC must comply with the requirements of FOIA when it process requests for Information submitted pursuant to FOIA.

**DATES:** Submit comments on or before August 31, 2017.

**ADDRESSES:** You may submit comments on the proposed rule by either of the methods listed below.

1. *U.S. mail, courier, or hand delivery:* General Counsel/Freedom of Information Officer, National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004.
2. *Electronically: FOIA@ncpc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Anne R. Schuyler, General Counsel and Chief FOIA Officer, 202–482–7223, *anne.schuyler@ncpc.gov.*

**SUPPLEMENTARY INFORMATION:** On June 30, 2016, President Obama signed into law the FOIA Improvement Act of 2016 (Pub. L. 114–185). The FOIA Improvement Act of 2016 addresses a range of procedural issues, including, among others, the requirement that agencies establish a minimum of 90 days for requesters to file an administrative appeal; provide dispute resolution services at various times throughout the FOIA process; refrain from charging fees for failure to comply with mandated time limits; engage in proactive disclosure of records of general interest or use to the public that are appropriate for such disclosure; and apply the Department of Justice's ''foreseeable harm'' standard as the basis for withholding information pursuant to an exemption contained in FOIA.

NCPC adopted updated FOIA regulations in February 2014. As a result, NCPC included many of the Department of Justice, Office of Information Policy (OIP) policies into its existing regulations some of which are now incorporated as law into the FOIA Improvement Act of 2016. As a result, the proposed regulations require only a few changes to comply with the requirements of the FOIA Improvement Act of 2016.

NCPC published its existing FOIA regulations under Title 1, Chapter 400, Part 456 of the Code of Federal Regulations (CFR). Historically, Title 1, Chapter IV (Miscellaneous Agencies), Parts 455, 456, and 457 of the CFR contained NCPC regulations (Privacy, FOIA, and Nondiscrimination respectively). However, as there were no additional Parts within Chapter IV to accommodate NCPC's National Environmental Policy Act (NEPA) Regulations, the Office of the Federal Register recently assigned NCPC a new Chapter—Chapter VI—within Title 1 for consolidation of all current and future NCPC regulations. As NCPC revises its existing regulations and prepares new ones, each revised and new regulation will be published in the next sequential Part of Chapter VI. The next sequential Part available for NCPC's proposed FOIA regulations is Part 602. Thus, the proposed FOIA regulations are advertised as Part 602.

**Key Changes Incorporated into NCPC's Proposed Freedom of Information Act Regulations**

*1. Time Limits*

The FOIA Improvement Act of 2016 requires agencies to establish a minimum of 90 days for requesters to file an administrative appeal. NCPC's proposed FOIA regulations incorporate this requirement in § 602.12(a) (Appeals of Adverse Determinations). Section 602.12(g) enumerates the ability to extend time limits for responding to a FOIA request (20 days) and the process to be followed by NCPC to extend the time limits.

*2. Assistance From NCPC's FOIA Public Liaison and the National Archives Record Administration's (NARA), Office of Government Information (OGIS)*

The FOIA Improvement Act of 2016 requires agencies to advise Requesters of the availability of dispute resolution services at various times throughout the FOIA process. The Act provides for these services to be offered by an Agency's FOIA Public Liaison and OGIS. NCPC's proposed regulations reference these services in §§ 602.5 (FOIA Request requirements), 602.6 (FOIA Response requirements), and 602.12 (Appeals of Adverse Determinations).

*3. Changes to Fee Structure*

The FOIA Improvement Act of 2016 precludes the collection of fees if an agency fails to meet mandated FOIA time limits. NCPC's proposed FOIA regulations contain this limitation in § 602(f)(1). Section 602(f)(2) introduces a new fee construct contained in the FOIA Improvements Act of 2016 for Requests that generate 5000 pages of responsive records.

As a general matter, the proposed FOIA regulations contain a reorganized fee section. The current regulations organize the fee section based on types of fees, *e.g.,* Search, Review and Duplication. The proposed regulations organize the fee section based three categories of Requesters, *e.g.,* Commercial Use Requesters; Noncommercial Scientific Institutions, Educational Institutions, and News Media Requesters; and all other Requesters. NCPC adopted this new organizational structure to improve the clarity of the fee section. Other than the reorganized structure and the two additions necessitated by the FOIA Improvements Act of 2016, the content of the fee section in the proposed regulations remains unchanged from that of the existing regulations.

*4. Standard for Release of Records*

The FOIA Improvement Act of 2016 requires agencies to proactively disclose in electronic format records that have been requested three or more times. It also requires application of the Department of Justice's ''foreseeable harm'' standard as the basis for withholding information pursuant to an exemption contained in FOIA. The concept of proactive disclosure is

already contained in NCPC's current regulations and is carried over in NCPC's proposed regulations at §§ 602.2(b) (Policy) and 602.4(b)(10) (Information Available without a FOIA Request). The foreseeable harm standard is incorporated in § 602.6(c).

*5. Elimination of a Description of NCPC's Organizational Structure*

NCPC's existing regulations contain an entire section devoted to a description of the Agency organizational structure and the Commission's composition (See, 1 CFR 456.2). As this information is readily available on NCPC's Web site, the referenced section has been removed from the proposed regulations. As a consequence, the remaining sections of the proposed regulations have been renumbered. Moreover, the Policy section has been moved. It now follows the Purpose section (renamed from General Information) and proceeds the Definition section. This appeared to be a move logical organizational structure.

**Compliance with Laws and Executive Orders**

*1. Executive Orders 12866 and 13563*

By Memorandum dated October 12, 1993 from Sally Katzen, Administrator, Office of Information and Regulatory Affairs (OIRA) to Heads of Executive Departments and Agencies, and Independent Agencies, OMB rendered the NCPC exempt from the requirements of Executive Order 12866 (See, Appendix A of cited Memorandum). Nonetheless, NCPC endeavors to adhere to the provisions of Executive Orders and developed this proposed rule in a manner consistent with the requirements of Executive Order 13563.

*2. Executive Order 13771*

By virtue of its exemption from the requirements of EO 12866, NCPC is exemption from this Executive Order. NCPC confirmed this fact with OIRA.

*3. Regulatory Flexibility Act*

As required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the NCPC certifies that the proposed rule will not have a significant economic effect on a substantial number of small entities.

*4. Small Business Regulatory Enforcement Fairness Act*

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs for individuals, various levels of governments or various regions; and does not have a significant adverse effect on completion, employment, investment, productivity, innovation or the competitiveness of U.S. enterprises with foreign enterprises.

*5. Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)*

A statement regarding the Unfunded Mandates Reform Act is not required. The proposed rule neither imposes an unfunded mandate of more than $100 million per year nor imposes a significant or unique effect on State, local or tribal governments or the private sector.

*6. Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The proposed rule does not substantially and directly affect the relationship between the Federal and state governments.

*7. Civil Justice Reform (Executive Order 12988)*

The General Counsel of NCPC has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of Executive Order 12988 3(a) and 3(b)(2).

*8. Paperwork Reduction Act*

The proposed rule does not contain information collection requirements, and it does not require a submission to the Office of Management and Budget under the Paperwork Reduction Act.

*9. National Environmental Policy Act*

The proposed rule is of an administrative nature, and its adoption does not constitute a major federal action significantly affecting the quality of the human environment. NCPC's adoption of the proposed rule will have minimal or no effect on the environment; impose no significant change to existing environmental conditions; and will have no cumulative environmental impacts.

*10. Clarity of the Regulation*

Executive Order 12866, Executive Order 12988, and the Presidential Memorandum of June 1, 1998 requires the NCPC to write all rules in plain language. NCPC maintains the proposed rule meets this requirement. Those individuals reviewing the proposed rule who believe otherwise should submit specific comments to the addresses noted above recommending revised language for those provision or portions thereof where they believe compliance is lacking.

*11. Public Availability of Comments*

Be advised that personal information such as name, address, phone number electronic address, or other identifying personal information contained in a comment may be made publically available. Individuals may ask NCPC to withhold the personal information in their comment, but there is no guarantee the agency can do so.

**List of Subjects in 1 CFR Part 602**

National Capital Planning Commission Freedom of Information Act Regulations.

For the reasons stated in the preamble, the National Capital Planning Commission proposes to amend 1 CFR chapters IV and VI as proposed to be established at 82 FR 24570 to read as follows:

**CHAPTER IV—MISCELLANEOUS AGENCIES**

## PART 456 [Removed]

■ 1. Under the authority of 40 U.S.C. 8711(a) remove part 456.
■ 2. Add part 602 to read as follows.

**CHAPTER VI—NATIONAL CAPITAL PLANNING COMMISSION**

## PART 602—NATIONAL CAPITAL PLANNING COMMISSION FREEDOM OF INFORMATION ACT REGULATIONS

Sec.
602.1 Purpose.
602.2 Policy.
602.3 Definitions.
602.4 Information Available without a FOIA Request.
602.5 FOIA Request requirements.
602.6 FOIA Response requirements.
602.7 Multi-track processing.
602.8 Expedited processing.
602.9 Consultations and referrals.
602.10 Classified and controlled unclassified information.
602.11 Confidential Commercial Information.
602.12 Appeals of Adverse Determinations.
602.13 Fees.
602.14 Fee waiver requirements.
602.15 Preservation of FOIA records.

**Authority:** 5 U.S.C. 552, as amended.

### § 602.1 Purpose.

This part contains the rules the National Capital Planning Commission (NCPC or Commission) shall follow in processing third party Requests for Records concerning the activities of the NCPC under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended. Requests made by a U.S. citizen or an individual lawfully admitted for permanent residence to access his or her

own records under the Privacy Act, 5 U.S.C. 522a are processed under this part and in accordance with part 602 of Title 1 of the Code of Federal Regulations (CFR) to provide the greatest degree of access while safeguarding an individual's personal privacy. Information routinely provided to the public as part of regular NCPC activity shall be provided to the public without regard to this part.

**§ 602.2 Policy.**

(a) It is the NCPC's policy to facilitate the broadest possible availability and dissemination of information to the public through use of the NCPC's Web site, *www.ncpc.gov,* and physical distribution of materials not available electronically. The NCPC staff shall be available to assist the public in obtaining information formally by using the procedures herein or informally in a manner not inconsistent with the rule set forth in this part.

(b) To the maximum extent possible, the NCPC shall make available agency Records of interest to the public that are appropriate for disclosure.

**§ 602.3 Definitions.**

For purposes of this part, the following definitions shall apply:

*Act and FOIA* mean the Freedom of Information Act, 5 U.S.C. 552, as amended.

*Adverse Determination or Determination* shall include a determination to withhold, in whole or in part, Records requested in a FOIA Request; the failure to respond to all aspects of a Request; the determination to deny a request for a Fee Waiver; or the determination to deny a request for expedited processing. The term shall also encompass a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records, or that an adequate Search has been conducted.

*Agency Record or Record* means any documentary material which is either created or obtained by a federal agency (Agency) in the transaction of Agency business and under Agency control. Agency Records may include without limitation books; papers; maps; charts; plats; plans; architectural drawings; photographs and microfilm; machine readable materials such as magnetic tape, computer disks and electronic data storage devices; electronic records including email messages; and audiovisual material such as still pictures, sound, and video recordings. This definition generally does not cover records of Agency staff that are created and maintained primarily for a staff member's convenience, exempt from Agency creation or retention requirements, and withheld from distribution to other Agency employees for their official use.

*Confidential Commercial Information* means commercial or financial information obtained by the NCPC from a Submitter that may be protected from disclosure under Exemption 4 of the FOIA. Exemption 4 of the FOIA protects trade secrets and commercial or financial information obtained from a person which information is privileged or confidential.

*Controlled Unclassified Information* means unclassified information that does not meet the standards for National Security Classification under Executive Order 13536, as amended, but is pertinent to the national interests of the United States or to the important interests of entities outside the federal government, and under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination.

*Commercial Use Request* means a FOIA Request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the Requester or the person on whose behalf the Request is made.

*Direct Costs* means those expenditures that the NCPC incurs in searching for, duplicating, and reviewing documents to respond to a FOIA Request. Direct Costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplicating machinery. Direct Costs do not include overhead expenses such as costs of space, and heating or lighting the facility in which the Records are stored.

*Duplication* means the process of making a copy of a document necessary to respond to a FOIA Request in a form that is reasonably usable by a Requester. Copies can take the form of, among others, paper copy, audio-visual materials, or machine readable documents (*i.e.,* computer disks or electronic data storage devices).

*Educational Institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. To be classified in this category, a Requester must show that the Request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

*Expedited Processing* means giving a FOIA Request priority because a Requester has shown a compelling need for the Records.

*Fee Waiver* means a waiver in whole or in part of fees if a Requester can demonstrate that certain statutory requirements are satisfied including that the information is in the public interest and is not requested primarily for commercial purposes.

*FOIA Public Liaison* means an NCPC official who is responsible for assisting in reducing delays, increasing transparency and understanding the status of Requests, and assisting in the resolution of disputes.

*FOIA Request or Request* means a written Request made by an entity or member of the public for an Agency Record submitted via the U.S. Postal Service mail or other delivery means to include without limitation electronic-mail (email) or facsimile.

*Frequently Requested Documents* means documents that have been Requested at least three times under the FOIA. It also includes documents the NCPC anticipates would likely be the subject of multiple Requests.

*Multi-track Processing* means placing requests in multiple tracks based on the amount of work or time (or both) needed to process the request. Simple Requests requiring relatively minimal work and/or review are placed in one processing track, more complex Requests are placed in one or more other tracks, and expedited Requests are placed in a separate track. Requests in each track are processed on a first-in/first-out basis.

*Noncommercial Scientific Institution* means an institution that is not operated for commerce, trade or profit, but is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a Requester must show that the Request is authorized by and is made under the auspices of a qualifying institution and that the Records are not sought for commercial use but are sought to further scientific research.

*Privacy Act Request* means, in accordance with NCPC's Privacy Act Regulations (1 CFR part 603) a written (paper copy with an original signature) request made by an individual for information about himself/herself that is contained in a Privacy Act system of records. The Privacy Act applies only to U.S. citizens and aliens lawfully

admitted for permanent residence such that only individuals satisfying these criteria may make Privacy Act Requests.

*Reading Room Materials* means Records, paper or electronic, that are required to be made available to the public under 5.U.S.C. 552(a)(2) as well as other Records that the NCPC, at its discretion, makes available to the public for inspection and copying without requiring the filing of a FOIA Request.

*Representative of the News Media* means any person or entity that gathers information of potential interest to a segment of the population, uses his/her/its editorial skills to turn raw material into a distinct work, and distributes that work to an audience. News media entities include television or radio stations broadcasting to the public at large; publishers of periodicals that qualify as disseminators of news and make their products available for purchase or subscription by the general public; and alternative media to include electronic dissemination through telecommunication (internet) services. To be in this category, a Requester must not be seeking the Requested Records for a commercial use. A *Freelance Journalist* is a Representative of the News Media who is able to demonstrate a solid basis for expecting publication through a news organization, even though not actually employed by that news organization. A publication contract or past evidence of a specific freelance assignment from a news organization may indicate a solid basis for expecting publication.

*Requester* means an entity or member of the public submitting a FOIA Request.

*Requester Category* means one of the five categories NCPC places Requesters in for the purpose of determining whether the Requester will be charged for Search, Review and Duplication, and includes Commercial Use Requests, Educational Institutions, Noncommercial Scientific Institutions, Representatives of the News Media, and all other Requesters.

*Review* means the examination of Records to determine whether any portion of the located Record is eligible to be withheld. It also includes processing any Records for disclosure, *i.e.,* doing all that is necessary to excise the record and otherwise prepare the Record for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

*Search* means the process of looking for material, by manual or electronic means that is responsive to a FOIA Request. The term also includes page-by-page or line-by-line identification of material within documents.

*Submitter* means any person or entity outside the federal government from whom the NCPC directly or indirectly obtains commercial or financial information. The term includes, among others, corporations, banks, state and local governments, and agencies of foreign governments who provide information to the NCPC.

*Unusual Circumstances* means, for purposes of § 602.7(c), and only to the extent reasonably necessary to the proper processing of a particular Request:

(1) The need to Search for and collect the Requested Agency Records from establishments that are separate from the Commission's offices;

(2) The need to Search for, collect and appropriately examine and Review a voluminous amount of separate and distinct Agency Records which are demanded in a single Request; or

(3) The need for consultation with another Agency having a substantial interest in the determination of the FOIA Request.

*Workday* means a regular Federal workday. It does not include Saturdays, Sundays, and legal public holidays.

**§ 602.4 Information available without a FOIA Request.**

(a) The NCPC shall maintain an electronic library at *www.ncpc.gov* that makes Reading Room Materials capable of production in electronic form available for public inspection and downloading. The NCPC shall also maintain an actual public reading room containing Reading Room Materials incapable of production in electronic form at NCPC's offices. The actual reading room shall be available for use on Workdays during the hours of 9:00 a.m. to 4:00 p.m. Requests for appointments to review Reading Room Materials in the actual public reading room should be directed to the NCPC's Information Resources Specialist identified on the NCPC Web site (*www.ncpc.gov*).

(b) The following types of Records shall be available routinely without resort to formal FOIA Request procedures unless such Records fall within one of the exemptions listed at 5 U.S.C. 552(b) of the Act:

(1) Commission agendas;

(2) Plans and supporting documentation submitted by applicants to the Commission to Include environmental and historic preservation reports prepared for a plan or project;

(3) Executive Director's Recommendations;

(4) Commission Memoranda of Action;

(5) Transcripts of Commission proceedings;

(6) The Comprehensive Plan for the National Capital: Federal Elements and other plans prepared by the NCPC;

(7) Federal Capital Improvements Plan for the National Capital Region following release of the President's Budget;

(8) Policies adopted by the Commission;

(9) Correspondence between the Commission and the Congress, other federal and local government agencies, and the public; and

(10) Frequently Requested Documents.

**§ 602.5 FOIA request requirements.**

(a) The NCPC shall designate a Chief Freedom of Information Act Officer who shall be authorized to grant or deny any Request for a Record of the NCPC.

(b) Requests for a Record or Records that is/are not available in the actual or electronic reading rooms shall be directed to the Chief Freedom of Information Act Officer.

(c) All FOIA Requests shall be made in writing. If sent by U.S. mail, Requests should be sent to NCPC's official business address contained on the NCPC Web site. If sent via email, they should be directed to *FOIA@ncpc.gov.* To expedite internal handling of FOIA Requests, the words Freedom of Information Act Request shall appear prominently on the transmittal envelope or the subject line of a Request sent via email or facsimile.

(d) The FOIA Request shall:

(1) State that the Request is made pursuant to the FOIA;

(2) Describe the Agency Record(s) Requested in sufficient detail including, without limitation, any specific information known such as date, title or name, author, recipient, or time frame for which you are seeking Records, to enable the NCPC personnel to locate the Requested Agency Records;

(3) State, pursuant to the fee schedule set forth in § 602.14, a willingness to pay all fees associated with the FOIA Request or the maximum fee the Requester is willing to pay to obtain the Requested Records, unless the Requester is seeking a Fee Waiver or placement in a certain Requester Category;

(4) State, if desired, the preferred form or format of disclosure of Agency Records with which the NCPC shall endeavor to comply unless compliance would damage or destroy an original Agency Record or reproduction is costly and/or requires the acquisition of new equipment; and

(5) Provide a phone number, email address or mailing address at which the

Requester can be reached to facilitate the handling of the Request.

(e) If a FOIA Request is unclear, overly broad, involves an extremely voluminous amount of Records or a burdensome Search, or fails to state a willingness to pay the requisite fees or the maximum fee which the Requester is willing to pay, the NCPC shall endeavor to contact the Requester to define the subject matter, identify and clarify the Records being sought, narrow the scope of the Request, and obtain assurances regarding payment of fees. The timeframe for a response set forth in § 602.6(a) shall be tolled (stopped temporarily) and the NCPC will not begin processing a Request until the NCPC obtains the information necessary to clarify the Request and/or clarifies issues pertaining to the fee.

(f) NCPC shall designate a FOIA Public Liaison to assist a Requester in making a Request or to assist a Requester in correcting a Request that does not reasonably describe the Records sought or to correct other deficiencies described in paragraph (e) of this section that necessitate follow-up with the Requester.

**§ 602.6 FOIA response requirements.**

(a) The Freedom of Information Act Officer, upon receipt of a FOIA Request made in compliance with these rules, shall determine whether to grant or deny the Request. The Freedom of Information Officer shall notify the Requester in writing within 20 Workdays of receipt of a perfected the Request of his/her determination and the reasons therefore and of the right to appeal any Adverse Determination to the head of the NCPC.

(b) In cases involving Unusual Circumstances, the agency may extend the 20 Workday time limit by written notice to the Requester. The written notice shall set forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension of more than 10 Working Days unless the agency affords the Requester an opportunity to modify his/her Request or arranges an alternative timeframe with the Requester for completion of the NCPC's processing. The agency shall also advise the Requester of his/her right to seek assistance from the FOIA Public Liaison or OGIS to resolve time limit disputes arising under this paragraph.

(c) NCPC shall deny a Request based on an exemption contained in the FOIA and withhold information from disclosure pursuant to an exemption only if NCPC reasonably foresees that disclosure would harm an interest protected by an exemption or if disclosure is prohibited by law. If a Request is denied based on an exemption, NCPC's response shall comply with the requirements of paragraph (d) below.

(d) If a Request is denied in whole or in part, the Chief FOIA Officer's written determination shall include, if technically feasible, the precise amount of information withheld, and the exemption under which it is being withheld unless revealing the exemption would harm an interested protected by the exemption. NCPC shall release any portion of a withheld Record that reasonably can be segregated from the exempt portion of the Record.

**§ 602.7 Multi-track processing.**

The NCPC may use multiple tracks for processing FOIA Requests based on the complexity of Requests and those for which expedited processing is Requested. Complexity shall be determined based on the amount of work and/or time needed to process a Request and/or the number of pages of responsive Records. If the NCPC utilizes Multi-track Processing, it shall advise a Requester when a Request is placed in a slower track of the limits associated with a faster track and afford the Requester the opportunity to limit the scope of its Request to qualify for faster processing.

**§ 602.8 Expedited processing.**

(a) The NCPC shall provide Expedited Processing of a FOIA Request if the person making the Request demonstrates that the Request involves:

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

(2) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

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

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

(b) A Request for Expedited Processing may be made at the time of the initial FOIA Request or at a later time.

(c) A Requester seeking Expedited Processing must submit a detailed statement setting forth the basis for the Expedited Processing Request. The Requester must certify in the statement that the need for Expedited Processing is true and correct to the best of his/her knowledge. To qualify for Expedited Processing, a Requester relying upon the category in paragraph (a)(2) of this section must establish:

(1) He/She is a full time Representative of the News Media or primarily engaged in the occupation of information dissemination, though it need not be his/her sole occupation;

(2) A particular urgency to inform the public about the information sought by the FOIA Request beyond the public's right to know about the government activity generally; and

(3) The information is of the type that has value that will be lost if not disseminated quickly such as a breaking news story. Information of historical interest only or information sought for litigation or commercial activities will not qualify nor would a news media deadline unrelated to breaking news.

(d) Within 10 calendar days of receipt of a Request for expedited processing, the NCPC shall decide whether to grant or deny the Request and notify the Requester of the decision in writing. If a Request for Expedited Processing is granted, the Request shall be given priority and shall be processed in the expedited processing track as fast as practicable. If a Request for Expedited Processing is denied, any appeal of that decision shall be acted on expeditiously.

**§ 602.9 Consultations and referrals.**

(a) If a Requester seeks a Record in which another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA, NCPC shall either respond to the FOIA Request after consultation with the Agency best able to determine if the Requested Record(s) is/are subject to disclosure or refer the responsibility for responding to the FOIA Request to the Agency responsible for originating the Record(s). Generally, the Agency originating a Record will be presumed by the NCPC to be the Agency best qualified to render a decision regarding disclosure or exemption except for Agency Records submitted to the NCPC pursuant to its authority to review Agency plans and/or projects.

(b) Upon referral of Records to another Agency, the NCPC shall notify the Requester in writing of the referral, inform the Requester of the name of the Agency to which all or part of the responsive records have been referred, provide the Requester a description of the part of the Request referred, and advise the Requester of a point of contact within the receiving Agency.

(c) The timeframe for a response to a FOIA Request requiring consultation or referral shall be based on the date the FOIA Request was initially received by the NCPC and not any later date.

**§ 602.10 Classified and Controlled Unclassified Information.**

(a) For Requests for an Agency Record that has been classified or may be appropriate for classification by another Agency pursuant to an Executive Order concerning the classification of Records, the NCPC shall refer the responsibility for responding to the FOIA Request to the Agency that either classified the Record, should consider classifying the Record, or has primary interest in the Record, as appropriate.

(b) Whenever a Request is made for a Record that is designated Controlled Unclassified Information by another Agency, the NCPC shall refer the FOIA Request to the Agency that designated the Record as Controlled Unclassified Information. Decisions to disclose or withhold information designated as Controlled Unclassified Information shall be made based on the applicability of the statutory exemptions contained in the FOIA, not on a Controlled Unclassified Information marking or designation.

**§ 602.11 Confidential Commercial Information.**

(a) Confidential Commercial Information obtained by the NCPC from a Submitter shall be disclosed under the FOIA only in accordance with the requirements of this section.

(b) A Submitter of Confidential Commercial Information shall use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4 of the FOIA. These designations will expire ten years after the date of the submission unless the Submitter requests, and provides justification for, a longer designation period.

(c) Notice shall be given to a Submitter of a FOIA Request for potential Confidential Commercial Information if:

(1) The requested information has been designated in good faith by the Submitter as Confidential Commercial Information eligible for protection from disclosure under Exemption 4 of the FOIA; or

(2) The NCPC has reason to believe the requested information is Confidential Commercial Information protected from disclosure under Exemption 4 of the FOIA.

(d) Subject to the requirements of paragraphs (c) and (g) of this section, the NCPC shall provide a Submitter with prompt written notice of a FOIA Request or administrative appeal that seeks the Submitter's Confidential Commercial Information. The notice shall give the Submitter an opportunity to object to disclosure of any specified portion of that Confidential Commercial Information pursuant to paragraph (e) of this section. The notice shall either describe the Confidential Commercial Information Requested or include copies of the Requested Records or portions thereof containing the Confidential Commercial Information. When notice to a large number of Submitters is required, NCPC may provide notification by posting or publishing the notice in a place reasonably likely to accomplish the intent of the notice requirement such as a newspaper, newsletter, the NCPC Web site, or the **Federal Register**.

(e) The NCPC shall allow a Submitter a reasonable time to respond to the notice described in paragraph (d) of this section and shall specify within the notice the time period for response. If a Submitter has any objection to disclosure, it shall submit a detailed written statement. The statement must specify all grounds for withholding any portion of the Confidential Commercial Information under any exemption of the FOIA and, in the case of Exemption 4, it must show why the Confidential Commercial Information is a trade secret or commercial or financial information that is privileged or confidential. If the Submitter fails to respond to the notice within the specified time, the NCPC shall consider this failure to respond as no objection to disclosure of the Confidential Commercial Information on the part of the Submitter, and NCPC shall proceed to release the requested information. A statement provided by the Submitter that is not received by NCPC until after the NCPC's disclosure decision has been made shall not be considered by the NCPC. Information provided by a Submitter under this paragraph may itself be subject to disclosure under the FOIA.

(f) The NCPC shall consider a Submitter's objections and specific grounds for nondisclosure in deciding whether to disclose Confidential Commercial Information. Whenever the NCPC decides to disclose Confidential Commercial Information over the objection of a Submitter, the NCPC shall give the Submitter written notice, which shall include:

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

(2) A description of the Confidential Commercial Information to be disclosed; and

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

(g) The notice requirements of paragraphs (c) and (d) of this section shall not apply if:

(1) The NCPC determines that the Confidential Commercial Information is exempt under FOIA;

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

(3) The Confidential Commercial Information's disclosure is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (Predisclosure Notification Procedures for Confidential Commercial Information); or

(4) The designation made by the Submitter under paragraph (b) of this section appears obviously frivolous in which case the NCPC shall, within a reasonable time prior to a specified disclosure date, give the Submitter written notice of any final decision to disclose the Confidential Commercial Information.

(h) Whenever a Requester files a lawsuit seeking to compel the disclosure of Confidential Commercial Information, the NCPC shall promptly notify the Submitter.

(i) Whenever the NCPC provides a Submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the NCPC shall also notify theRequester. Whenever the NCPC notifies a Submitter of its intent to disclose RequestedInformation under paragraph (f) of this section, the NCPC shall also notify the Requester. Whenever a Submitter files a lawsuit seeking to prevent the disclosure ofConfidential Commercial Information, the NCPC shall notify the Requester.

**§ 456.12 Appeals of Adverse Determinations.**

(a) An appeal of an Adverse Determination shall be made in writing to the Chairman of the Commission (Chairman). An appeal may be submitted via U.S. mail or other type of manual delivery service or via email or facsimile within 90 Workdays of the date of a notice of an Adverse Determination. To facilitate handling of an appeal, the words Freedom of Information Act Appeal shall appear

prominently on the transmittal envelope or the subject line of a Request sent via electronic-mail or facsimile.

(b) An appeal of an Adverse Determination shall include a detailed statement of the legal, factual or other basis for the Requester's objections to an Adverse Determination; a daytime phone number or email address where the Requester can be reached if the NCPC requires additional information or clarification regarding the appeal; copies of the initial Request and the NCPC's written response; and for an Adverse Determination of a Request for Expedited Processing or a Fee Waiver, a demonstration of compliance with the requirements of §§ 602.8(a) and (c) or 602.13(a) through (c) respectively.

(c) The Chairman shall respond to an appeal of an Adverse Determination in writing within 20 Workdays of receipt.

(1) If the Chairman grants the appeal, the Chairman shall notify the Requester, and the NCPC shall make available copies of the Requested Records promptly thereafter upon receipt of the appropriate fee determined in accordance with § 602.13.

(2) If the Chairman denies the appeal in whole or in part, the letter to the Requester shall state

(i) The reason(s) for the denial, including the FOIA exemptions(s) applied;

(ii) A statement that the decision is final;

(iii) A notice of the Requester's right to seek judicial review of the denial in the District Court of the United States in either the locale in which the Requester resides, the locale in which the Requester has his/her principal place of business, or in the District of Columbia; and

(iv) A notice that the Requester may seek dispute resolution services from either the NCPC FOIA Public Liaison or the Office of Government Information Services (OGIS) to resolve disputes between a Requester and the NCPC as a non-exclusive alternative to litigation. Contact information for OGIS can be obtained from the OGIS Web site at *ogis@nara.gov.*

(d) The NCPC shall not act on an appeal of an Adverse Determination if the underlying FOIA Request becomes the subject of FOIA litigation.

(e) A party seeking court review of an Adverse Determination must first appeal the decision under this section to NCPC.

**§ 602.13 Fees.**

(a) NCPC shall charge fees for processing FOIA requests in accordance with the provisions of this section and OMB Guidelines.

(b) For purposes of assessing fees, NCPC shall categorize Requesters into three categories: Commercial Use Requesters; Noncommercial Scientific Institution, Educational Institution, and News Media Requesters; and all other Requesters. Different fees shall be charged depending upon the category into which a Requester falls. If fees apply, a Requesters may seek a fee waiver in accordance with the requirements of § 602.14.

(c) Search Fees shall be charged as follows:

(1) NCPC shall not charge Search fees to Requests made by Educational Institutions, Noncommercial Scientific Institutions, or Representatives of the New Media. NCPC shall charge Search fees to all other Requesters subject to the restrictions of paragraph (f) of this section even if NCPC fails to locate any responsive Records or if the NCPC withholds Records located based on a FOIA exemption

(2) For each quarter hour spent by personnel searching for Requested Records, including electronic searches that do not require new programming, the Search fees shall be calculated based on the average hourly General Schedule (GS) base salary, plus the District of Columbia locality payment, plus 16 percent for benefits of employees in the following three categories: Staff Assistant (assigned at the GS 9–11 grades); Professional Personnel (assigned at the GS 11–13 grades); and Managerial Staff (assigned at the 14–15 grades). For a Staff Assistant the quarter hour fee to Search for and retrieve a Requested Record shall be $9.00. If a Search and retrieval cannot be performed entirely by a Staff Assistant, and the identification of Records within the scope of a Request requires the use of Professional Personnel, the fee shall be $12.00 for each quarter hour of Search time spent by Professional Personnel. If the time of Managerial Personnel is required, the fee shall be $18.00 for each quarter hour of Search time spent by Managerial Personnel.

(3) For a computer Search of Records, Requesters shall be charged the Direct Costs of creating a computer program, if necessary, and/or conducting the Search. Direct Costs for a computer Search shall include the cost that is directly attributable to the Search for responsive Records and the costs of the operator's salary for the time attributable to the Search.

(d) Duplication fees shall be charged to all Requesters, subject to the limitations of paragraph (f)(5) of this section. For a paper photocopy of a Record (no more than one copy of which shall be supplied), the fee shall be 10 cents per page for single or double sided copies, 90 cents per page for 8 ½ by 11 inch color copies, and $1.50 per page for color copies up to 11 x 17 inches per page. For copies produced by computer, and placed on an electronic data saving device or provided as a printout, the NCPC shall charge the Direct Costs, including operator time, of producing the copy. For other forms of Duplication, the NCPC shall charge the Direct Costs of that Duplication.

(e) Review fees shall be charged to only those Requesters who make a Commercial Use Request. Review fees will be charged only for the NCPC initial Review of a Record to determine whether an exemption applies to a particular Record or portion thereof. No charge will be made for Review at the administrative appeal level for an exemption already applied. However, Records or portions thereof withheld under an exemption that is subsequently determined not applicable upon appeal may be reviewed again to determine whether any other exemption not previously considered applies. If the NCPC determines a different exemption applies, the costs of that Review are chargeable. Review fees will be charged at the same rates as those charged for a Search under paragraph (c)(2) of this section.

(f) The following limitations on fees shall apply:

(1) If NCPC fails to comply with the time limits in which to respond to a request, shall not charge Search fees or, in the case of Educational Institutions, Noncommercial Scientific Institutions, or Representatives of the News Media, duplication fees, except as described in (f)(2)–(4).

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

(3) If NCPC determines that Unusual Circumstances exist, and more than 5000 pages of responsive records are necessary to respond to the Request, NCPC may charge Search fees. NCPC may also charge duplication fees in the case of Educational Institutions, Noncommercial Scientific Institutions, or Representatives of the News Media. The provisions of this paragraph shall only apply if NCPC provides timely written notice of the Unusual Circumstances to the Requester and discusses with the Requester via mail, email and phone (or made at least three good faith efforts to do so) how to effectively limit the scope of the Request.

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

(5) No Search or Review fees shall be charged for a quarter-hour period unless more than half of that period is required for Search or Review.

(6) Except for Requesters of a Commercial Use Request, the NCPC shall provide without charge the first two hours of Search (or the cost equivalent) and the first 100 pages of Duplication (or the cost equivalent);

(7) Except for Requesters of a Commercial Use Request, no fee shall be charged for a Request if the total fee calculated under this section equals $50.00 or less.

(8) Requesters other than those making a Commercial Use Request shall not be charged a fee unless the total cost of a Search in excess of two hours plus the cost of Duplication in excess of 100 pages totals more than $50.00.

(h) If the NCPC determines or estimates fees in excess of $50.00, the NCPC shall notify the Requester of the actual or estimated amount of total fees, unless in its initial Request the Requester has indicated a willingness to pay fees as high as those determined or estimated. If only a portion of the fee can be estimated, the NCPC shall advise the Requester that the estimated fee constitutes only a portion of the total fee. If the NCPC notifies a Requester that actual or estimated fees amount to more than $50.00, the Request shall not be considered received for purposes of calculating the timeframe for a Response, and no further work shall be undertaken on the Request until the Requester agrees to pay the anticipated total fee. Any such agreement shall be memorialized in writing. A notice under this paragraph shall offer the Requester an opportunity to work with the NCPC to reformulate the Request to meet the Requester's needs at a lower cost.

(i) Apart from other provisions of this section, if the Requester asks for or the NCPC chooses as a matter of administrative discretion to provide a special service—such as certifying that Records are true copies or sending them by other than ordinary mail—the actual costs of special service shall be charged.

(j) The NCPC shall charge interest on any unpaid fee starting on the 31st day following the date of billing the Requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 (Interest and Penalty on Claims) and will accrue from the date of the billing until payment is received by the NCPC. The NCPC shall follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(k) Where the NCPC reasonably believes that one or more Requesters are acting in concert to subdivide a Request into a series of Requests to avoid fees, the NCPC may aggregate the Requests and charge accordingly. The NCPC shall presume that multiple Requests of this type made within a 30-day period have been made to avoid fees. Where Requests are separated by a time period in excess of 30 days, the NCPC shall aggregate the multiple Requests if a solid basis exists for determining aggregation is warranted under all circumstances involved.

(l) Advance payments shall be treated as follows:

(1) For Requests other than those described in paragraphs (2) and (3) of this section, the NCPC shall not require an advance payment. An advance payment refers to a payment made before work on a Request is begun or continued after being stopped for any reason but does not extend to payment owed for work already completed but not sent to a Requester.

(2) If the NCPC determines or estimates a total fee under this section of more than $250.00, it shall require an advance payment of all or part of the anticipated fee before beginning to process a Request, unless the Requester provides satisfactory assurance of full payment or has a history of prompt payment.

(3) If a Requester previously failed to pay a properly charged FOIA fee to the NCPC within 30 days of the date of billing, the NCPC shall require the Requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the NCPC begins to process a new Request or continues processing a pending Request from that Requester.

(4) If the NCPC requires advance payment or payment due under paragraphs (2) or (3) of this section, the Request shall not be considered received and no further work will be undertaken on the Request until the required payment is received.

(m) Where Records responsive to Requests are maintained for distribution by Agencies operating statutorily based fee schedule programs, the NCPC shall inform Requesters of the steps for obtaining Records from those sources so that they may do so most economically.

(n) All fees shall be paid by personal check, money order or bank draft drawn on a bank of the United States, made payable to the order of the Treasurer of the United States.

**§ 602.15 Fee waiver requirements.**

(a) Records responsive to a Request shall be furnished without charge or at a charge reduced below that established under § 602.14 if the Requester demonstrates to the NCPC, and the NCPC determines, based on all available information, that Disclosure of the Requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and disclosure of the information is not primarily in the commercial interest of the Requester.

(b) To determine if disclosure of the Requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the Requester shall demonstrate, and NCPC shall consider, the following factors:

(1) Whether the subject of the Requested Records concerns the operations or activities of the government. The subject of the Requested Records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated.

(2) Whether the disclosure is likely to contribute to an understanding of government operations or activities. The portions of the Requested Records eligible for disclosure must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, is not likely to contribute to an understanding of government operations and activities because this information is already known.

(3) Whether disclosure of the Requested information will contribute to public understanding. The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the Requester. A Requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a Representative of the News Media satisfies this consideration.

(4) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities. The public's understanding of the subject in question must be

enhanced by the disclosure to a significant extent, as compared to the level of public understanding existing prior to the disclosure. The NCPC shall not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is important enough to be made public.

(c) To determine whether disclosure of the information is not primarily in the commercial interest of the Requester, the Requester shall demonstrate, and NCPC shall consider, the following factors:

(1) Whether the Requester has a commercial interest that would be furthered by the Requested disclosure. The NCPC shall consider any commercial interest of the Requester (with reference to the definition of Commercial Use Request in § 456.3(f)), or of any person on whose behalf the Requester may be acting, that would be furthered by the Requested disclosure. Requesters shall be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(2) Whether any identified commercial interest of the Requester is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the Requester. A Fee Waiver is justified where the public interest standard of paragraph (b) of this section is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The NCPC ordinarily shall presume that a Representative of the News Media satisfies the public interest standard, and the public interest will be the interest primarily served by disclosure to that Requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(d) Where only some of the Records to be released satisfy the requirements for a Fee Waiver, a Fee Waiver shall be granted for those Records.

(e) Requests for a Fee Waiver should address the factors listed in paragraphs (b) and (c) of this section, insofar as they apply to each Request. The NCPC shall exercise its discretion to consider the cost-effectiveness of its investment of administrative resources in this decision-making process in deciding to grant Fee Waivers.

**§ 456.16 Preservation of FOIA records.**

(a) The NCPC shall preserve all correspondence pertaining to FOIA Requests received and copies or Records provided until disposition or destruction is authorized by the NCPC's General Records schedule established in accordance with the National Archives and Records Administration (NARA) approved schedule.

(b) Materials that are responsive to a FOIA Request shall not be disposed of or destroyed while the Request or a related lawsuit is pending even if the Records would otherwise be authorized for disposition under the NCPC's General Records Schedule or NARA or other NARA-approved records schedule.

Dated: July 24, 2017.

**Anne R. Schuyler,**

*General Counsel.*

[FR Doc. 2017–15887 Filed 7–31–17; 8:45 am]

BILLING CODE 7502–02–P

## NATIONAL CAPITAL PLANNING COMMISSION

## 1 CFR Chapters IV and VI

## Privacy Act Regulations

**AGENCY:** National Capital Planning Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The National Capital Planning Commission (NCPC or Commission) proposes to adopt new regulations governing NCPC's implementation of the Privacy Act, as amended and the privacy provisions of the E-Government Act of 2002. NCPC must comply with the requirements of the Privacy Act and the privacy provisions of the E-Government Act of 2002 for records maintained on individuals and personal information stored as a hard copy or electronically.

**DATES:** Submit comments on or before August 31, 2017.

**ADDRESSES:** You may submit written comments on the proposed Privacy Act regulations by either of the methods listed below.

1. U.S. mail, courier, or hand delivery: Anne R. Schuyler, General Counsel/ National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004.

2. Electronically: *Privacy@ncpc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Anne R. Schuyler, General Counsel at 202–482–7223, *anne.schuyler@ncpc.gov.*

**SUPPLEMENTARY INFORMATION:** NCPC's adopted its current Privacy Regulations (1 CFR 455) in 1977. Since that time, Congress amended the Privacy Act multiple times including the E-Government Act of 2002 which addressed requirements for maintaining electronic privacy records. The proposed regulations update NCPC's existing Privacy Regulations to reflect amendments over time. The Office of the Federal Register recently assigned NCPC a new chapter of 1 CFR—Chapter VI—to allow NCPC to group all its regulations together in one chapter. NCPC proposes to codify the new Privacy Regulations at 1 CFR 603.

### Section by Section Analysis of NCPC's Privacy Act Regulations

*§ 603.1 Purpose and scope.* This section advises the purpose of the regulations is to implement a privacy program consistent with the requirements of the Privacy Act and the privacy related provision of the E-Government Act of 2002. As stated in the section, NCPC's privacy program extends to all Records maintained by NCPC in a System of Records; the responsibilities of NCPC to safeguard this information; the procedures by which Individuals may request notification of the existence of a Record about them, access to Records about them, an amendment to or correction of the Records about them, and an accounting of disclosures of those Records by the NCPC; the procedures by which an Individual may appeal an Adverse Determination, and the conduct of a Privacy Impact Assessment.

*§ 603.2 Definitions.* This section defines terms frequently used in the regulations. The section includes the five terms defined in the existing regulations—Individual, Maintain, Record, Routine Use and System of Records. It adds the definitions for the following terms: Adverse Determination, E-Government Act of 2002, Information in Identifiable Form (IIF), Information Technology, Privacy Act Officer (PAO), Privacy Act, Privacy Impact Assessment (PIA), Record, Requester, Request for Access to a Record, Request for Amendment or Correction of a Record, Senor Agency Official for Privacy (SAOP), System of Records Notice (SORN), and Workday.

*§ 603.3 Privacy Act program responsibilities.* This section requires NCPC to designate a SAOP and a PAO and outlines the responsibilities associated with both positions. It also enumerates the Privacy Act responsibilities of other NCPC personnel.

*§ 603.4 Standards used to Maintain Records.* This section establishes the standards NCPC must follow regarding privacy information. The section

requires NCPC to limit private information to only that necessary to achieve the purposes for which it is collected and stored; to ensure all information collected is accurate, relevant, timely, and complete; and to collect privacy information regarding an Individual's rights, benefits and privileges under federal programs from the Individual to the maximum extent possible subject to collection from third parties in certain circumstances.

*§ 603.5 Notice to Individuals supplying information.* This section enumerates the information NCPC must provide Individuals who are asked to supply information about themselves. The required information enumerated includes the purpose for which NCPC intends to use the information; the effects upon an Individual for not providing the information; and the form of notice NCPC must supply in response to an Individual's provision of information.

*§ 603.6 System of Records (SOR) Notice (SORN).* This section requires NCPC to publish a notice in the **Federal Register** describing each SOR 40-days before establishing a new or revising an existing SOR. The section requires the SORN to include the purpose of the Records and their location; the types of Individuals contained in the SOR; the authority for maintaining the SOR; the purpose or reason why NCPC collects the Records and their intended routine uses; the sources of the Records in the SOR; the policies and practices regarding storage, retrieval, access controls, retention, and disposal of the Records; the identification of the agency official responsible for the SOR; and the procedures for notifying an Individual who requests whether the SOR contains information about him/her.

*§ 603.7 Procedures to safeguard Records.* This section describes the procedures utilized by NCPC to safeguard hard copy and computerized records subject to the Privacy Act. The section requires hard copy Records to be stored in a locked room subject to restricted access with external posted warning signs limiting access to authorized personnel and/or stored in a locked container with identical precautions to those used for a locked room. The section requires computerized Records to be maintained subject to the Safeguards recommended by the National Institute of Standards and Technology (NIST).

*§ 603.8 Employee conduct.* This section requires employees with duties requiring access to and handling of Records to do so in a manner that protects the integrity, security and confidentiality of the Records. It prohibits employee disclosure of records unless authorized by the rules in this part, permitted by NCPC's FOIA regulations, or disclosed to the Individual to whom the Record pertains. The section also prohibits destruction or alteration of Records unless required as part of an employee's regular duties, required by regulations published by the National Archives Record Administration (NARA), or required by a court of law.

*§ 603.9 Government contracts.* This section requires contractors operating a System of Records on behalf of NCPC to abide by the requirements of the Privacy Act. It also requires a NCPC employee to oversee and manage the SOR operated by a contractor.

*§ 603.10 Conditions for disclosure.* Subject to a list of enumerated exceptions, this section precludes disclosure of a Record contained in a SOR unless prior written consent is obtained from the Individual to whom the record pertains.

*§ 603.11 Accounting of disclosures.* This section requires NCPC to prepare an accounting of disclosure when a Record is disclosed to any person or to another agency. The section requires the contents of an accounting to include the date, nature, and purpose of the disclosure and the name and address of the person or agency to whom the disclosure was made. The section also requires Accountings of disclosures to be made available to the Individual about whom the disclosed Record pertains except under limited circumstances. It further requires changes to disclosed Records to be shared with the person or agency to whom the Record was originally disclosed.

*§ 603.12 Requests for notification of the existence of Records.* This section advises Individuals how to determine whether a System of Records maintained by NCPC contains Records pertaining to them. It requires Individuals either to contact NCPC in writing or appear at NCPC's offices by appointment to make the subject request. The section requires the NCPC PAO to respond to a request in writing within 20-Workdays, to include in the response the Reason(s) for the PAO's determination, and to advise the requester of the right to appeal the decision.

*§ 603.13 Request for access to Records.* This section advises Individuals how to access NCPC records about themselves. It requires Individuals to request the right to access Records either in writing or to appear at NCPC's offices by appointment. The section enumerates the information required to be included in a request, and obligates Individuals to present certain specified identification to access the requested Records. The section also requires the NCPC PAO to respond to a request for access in writing within 20-Workdays, to state in the response the reason for the PAO's determination, and to advise the Requester of the right to appeal an Adverse Determination.

*§ 603.14 Requests for amendment or correction of Records.* This section outlines the process Individuals must follow to amend or correct Records about them that they believe are inaccurate, irrelevant, untimely or incomplete. The section requires a request for amendment or correction to be in writing, include certain specified information, and to be made only if the Individual has previously requested and been granted access to the Record. The section also requires the NCPC PAO to respond to a request for amendment or correction in writing within 20-Workdays, to state the reason for the PAO's determination in the response, to advise the requester of the right to appeal an Adverse Determination, to ensure the Record is amended or corrected in whole or in part if the PAO approves the request, and to place a notation of a dispute on the Record if the request is denied.

*§ 603.15. Requests for an accounting of Records disclosures.* This section outlines the process Individuals must follow to obtain information about disclosures of Records pertaining to them. It requires a request for information about Records disclosed to include certain specified information. The section also requires the NCPC PAO to respond to a request for information about disclosures in writing within 20-Workdays, to include, in the event of a disclosure, the date, nature and purpose of the disclosure, the name and address of the person or agency to whom the disclosure was made. The section further requires the PAO to state the reason for his/her determination and to advise the requester of the right to appeal an Adverse Determination.

*§ 602.16 Appeals of Adverse Determinations.* This section describes the process Individuals must follow to appeal an Adverse Determination. As defined in the definition section of the regulations Adverse Determination means a decision to withhold any requested Record in whole or in part; a decision that the requested Record does not exist or cannot be located; a decision that the requested information is not a Record subject to the Privacy Act; a decision that a Record, or part thereof, does not require amendment or correction; a decision to refuse to

disclose an accounting of disclosure; and a decision to deny a fee waiver. The term also encompasses a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records, or that an adequate search has been conducted. The section requires an Individual to submit a written appeal to the Chairman of the Commission stating the legal, factual or other basis for the Appeal, and it requires the Chairman to provide a written response within 30-Workdays. The section also requires NCPC to take prompt action to respond affirmatively to the Individual's original request if the Chairman grants the request and to state the reasons for a denial and the right to appeal the denial to a court of competent jurisdiction.

*§ 603.17 Fees.* This section states the fees to be charged for the search for and duplication of Records. It advises fees for duplication shall be those established by NCPC's FOIA Regulations, and it states there are no fees for the search or review of Records requested by an Individual.

*§ 603.18 Privacy Impact Assessments.* This section states when NCPC must conduct a Privacy Impact Assessment (PIA), the contents of a PIA, and the process for approving the PIA. The section requires a PIA to be conducted before developing or procuring an IT system that collects, maintains or disseminates Information that identifies an Individual (IFF or Information in Identifiable Form) or when NCPC installs a new collection of IFF for 10 or more persons other than employees, or agencies of the federal government. The section also requires a PIA to analyze a number of factors related to the collection, use, owner, storage and manner of securing the IFF, and it requires the PIA to be approved and posted on NCPC's Web site prior to undertaking the action that required the PIA.

**Compliance With Laws and Executive Orders**

**Executive Orders 12866 and 13563**

By Memorandum dated October 12, 1993 from Sally Katzen, Administrator, Office of Information and Regulatory Affairs (OIRA) to Heads of Executive Departments and Agencies, and Independent Agencies, OMB rendered the NCPC exempt from the requirements of Executive Order 12866 (See, Appendix A of cited Memorandum). Nonetheless, NCPC endeavors to adhere to the provisions of Executive Orders and developed this proposed rule in a manner consistent with the requirements of Executive Order 13563.

**Executive Order 13771**

By virtue of its exemption from the requirements of EO 12866, NCPC is exempted from this Executive Order. NCPC confirmed this fact with OIRA.

**Regulatory Flexibility Act**

As required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the NCPC certifies that the proposed rule will not have a significant economic effect on a substantial number of small entities.

**Small Business Regulatory Enforcement Fairness Act**

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs for individuals, various levels of governments or various regions; and does not have a significant adverse effect on completion, employment, investment, productivity, innovation or the competitiveness of US enterprises with foreign enterprises.

**Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)**

A statement regarding the Unfunded Mandates Reform Act is not required. The proposed rule neither imposes an unfunded mandate of more than $100 million per year nor imposes a significant or unique effect on State, local or tribal governments or the private sector.

**Federalism (Executive Order 13132)**

In accordance with Executive Order 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The proposed rule does not substantially and directly affect the relationship between the Federal and state governments.

**Civil Justice Reform (Executive Order 12988)**

The General Counsel of NCPC has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of Executive Order 12988 3(a) and 3(b)(2).

**Paperwork Reduction Act**

The proposed rule does not contain information collection requirements, and it does not require a submission to the Office of Management and Budget under the Paperwork Reduction Act.

**National Environmental Policy Act**

The proposed rule is of an administrative nature, and its adoption does not constitute a major federal action significantly affecting the quality of the human environment. NCPC's adoption of the proposed rule will have minimal or no effect on the environment; impose no significant change to existing environmental conditions; and will have no cumulative environmental impacts.

**Clarity of the Regulation**

Executive Order 12866, Executive Order 12988, and the Presidential Memorandum of June 1, 1998 requires the NCPC to write all rules in plain language. NCPC maintains the proposed rule meets this requirement. Those individuals reviewing the proposed rule who believe otherwise should submit specific comments to the addresses noted above recommending revised language for those provision or portions thereof where they believe compliance is lacking.

**Public Availability of Comments**

Be advised that personal information such as name, address, phone number, electronic address, or other identifying personal information contained in a comment may be made publically available. Individuals may ask NCPC to withhold the personal information in their comment, but there is no guarantee the agency can do so.

**List of Subjects in 1 CFR Part 603**

Privacy Act Regulations.

For the reasons stated in the preamble, the National Capital Planning Commission proposes amend 1 CFR Chapters IV and VI as proposed to be established at 82 FR 24570 to read as follows:

**CHAPTER IV—MISCELLANEOUS AGENCIES**

## PART 455 [Removed].

■ 1. Under the authority of 40 U.S.C. 8711(a) remove part 455.

■ 2. Add part 603 to read as follows:

**CHAPTER VI—NATIONAL CAPITAL PLANNING COMMISSION [Proposed]**

## PART 603—NATIONAL CAPITAL PLANNING COMMISSION PRIVACY ACT REGULATIONS

Sec.

603.1 Purpose and scope.
603.2 Definitions.
603.3 Privacy Act program responsibilities.
603.4 Standard used to Maintain Records.
603.5 Notice to Individuals supplying information.
603.6 System of Records Notice or SORN.
603.7 Procedures to safeguard Records.
603.8 Employee conduct.
603.9 Government contracts.
603.10 Conditions for disclosure.

603.11 Accounting for disclosures.
603.12 Request for notification of the existence of Records.
603.13 Requests for access to Records.
603.14 Request for Amendment or Correction of Records.
603.15 Request for Accounting of Record disclosures.
603.16 Appeal of Adverse Determinations.
603.17 Fees.
603.18 Privacy Impact Assessments.

**Authority:** 5 U.S.C. 552a as amended and 44 U.S.C. ch. 36.

### § 603.1 Purpose and scope.

(a) This part contain the rules the National Capital Planning Commission (NCPC) shall follow to implement a privacy program as required by the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act or Act) and the privacy provisions of the E-Government Act of 2002 (44 U.S.C. ch. 36) (E-Government Act). These rules should be read together with the Privacy Act and the privacy related provisions of the E-Government Act, which provide additional information respectively about Records maintained on individuals and protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) Consistent with the requirements of the Privacy Act, the rules in this part apply to all Records maintained by NCPC in a System of Records; the responsibilities of the NCPC to safeguard this information; the procedures by which Individuals may request notification of the existence of a record, request access to Records about themselves, request an amendment to or correction of those Records, and request an accounting of disclosures of those Records by the NCPC; and the procedures by which an Individual may appeal an Adverse Determination.

(c) Consistent with the privacy related requirements of the E-Government Act, the rules in this part also address the conduct of a privacy impact assessment prior to developing or procuring information technology that collects, maintains, or disseminates information in an identifiable form, initiating a new electronic collection of information in identifiable form for 10 or more persons excluding agencies, instrumentalities or employees of the federal government, or changing an existing System that creates new privacy risks.

(d) In addition to the rules in this part, the NCPC shall process all Privacy Act Requests for Access to Records in accordance with the Freedom of Information Act (FOIA), 5 U.S.C. 552, and NCPC's FOIA rules.

### § 603.2 Definitions.

For purposes of this part, the following definitions shall apply:

*Adverse Determination* shall mean a decision to withhold any requested Record in whole or in part; a decision that the requested Record does not exist or cannot be located; a decision that the requested information is not a Record subject to the Privacy Act; a decision that a Record, or part thereof, does not require amendment or correction; a decision to refuse to disclose an accounting of disclosure; and a decision to deny a fee waiver. The term shall also encompass a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records or that an adequate search has been conducted.

*E-Government Act of 2002* shall mean Public Law 107–347, Dec. 17, 2002, 116 Stat. 2899, the privacy portions of which are set out as a note under section 3501 of title 44.

*Individual* shall mean a citizen of the United States or an alien lawfully admitted for permanent residence.

*Information in Identifiable Form (IFF)* shall mean information in an Information Technology system or an online collection that directly identifies an individual, *e.g.,* name, address, social security number or other identifying number or code, telephone number, email address and the like; or information by which the NCPC intends to identify specific individuals in conjunction with other data elements, *e.g.,* indirect identification that may include a combination of gender, race, birth date, geographic identifiers, and other descriptions.

*Information Technology (IT)* shall mean, as defined in the Clinger Cohen Act (40 U.S.C. 11101(6)), any equipment, software or interconnected system or subsystem that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data.

*Maintain* shall include maintain, collect, use or disseminate a Record.

*Privacy Act Officer* shall mean the individual within the NCPC charged with responsibility for coordinating and implementing NCPC's Privacy Act program.

*Privacy Act or Act* shall mean the Privacy Act of 1974, as amended and codified at 5 U.S.C. 552a.

*Privacy Impact Assessment (PIA)* shall mean an analysis of how information is handled to ensure handling conforms to applicable legal, regulatory, and policy requirements regarding privacy; to determine the risks and effects of collecting, maintaining and disseminating information in identifiable form in an electronic system; and to examine and evaluate protections and alternative processes for handling information to mitigate potential privacy risks.

*Record* shall mean any item, collection, or grouping of information about an Individual that is Maintained by the NCPC, including, but not limited to, an Individual's education, financial transactions, medical history, and criminal or employment history and that contains a name, or identifying number, symbol, or other identifying particular assigned to the Individual, such as a finger or voice print or photograph.

*Requester* shall mean an Individual who makes a Request for Access to a Record, a Request for Amendment or Correction of a Record, or a Request for Accounting of a Record under the Privacy Act.

*Request for Access to a Record* shall mean a request by an Individual made to the NCPC pursuant to subsection (d)(1) of the Privacy Act to gain access to his/her Records or to any information pertaining to him/her in the system and to permit him/her, or a person of his/her choosing, to review and copy all or any portion thereof.

*Request for Amendment or Correction of a Record* shall mean a request made by an Individual to the NCPC pursuant to subsection (d)(2) of the Privacy Act to amend or correct a Record pertaining to him/her.

*Routine Use* shall mean with respect to disclosure of a Record, the use of such Record for a purpose which is compatible with the purpose for which the Record is collected.

*Senior Agency Official for Privacy* (SAOP) shall mean the individual within NCPC responsible for establishing and overseeing the NCPC's Privacy Act program.

*System of Records or System* (SOR or Systems) shall mean a group of any Records under the control of the NCPC from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

*System of Record Notice (SORN)* shall mean a notice published in the **Federal Register** by the NCPC for each new or revised System of Records intended to solicit public comment on the System prior to implementation.

*Workday* shall mean a regular Federal workday excluding Saturday, Sunday and legal Federal holidays when the federal government is closed.

**§ 603.3 Privacy Act program responsibilities.**

(a) The NCPC shall designate a Senior Agency Official for Privacy (SAOP) to establish and oversee the NCPC's Privacy Act Program and ensure compliance with privacy laws, regulations and the NCPC's privacy policies. Specific responsibilities of the SAOP shall include:

(1) Reporting to the Office of Management and Budget (OMB) and Congress on the establishment of or revision to Privacy Act Systems;

(2) Reporting periodically to OMB on Privacy Act activities as required by law and OMB;

(3) Signing Privacy Act SORNS for publication in the **Federal Register**;

(4) Approving and signing PIAs; and

(5) Serving as head of the agency response team when responding to a large-scale information breach.

(b) The NCPC shall designate a Privacy Act Officer (PAO) to coordinate and implement the NCPC's Privacy Act program. Specific responsibilities of the PAO shall include:

(1) Developing, issuing and updating, as necessary, the NCPC's Privacy Act policies, standards, and procedures;

(2) Maintaining Privacy Act program Records and documentation;

(3) Responding to Privacy Act Requests for Records and coordinating appeals of Adverse Determinations for Requests for access to Records, Requests for Amendment or Correction of Records, and Requests for accounting for disclosures;

(4) Informing Individuals of information disclosures;

(5) Working with the NCPC's Division Directors or designated staff to develop an appropriate form for collection of Privacy Act information and including in the form a Privacy Act statement explaining the purpose for collecting the information, how it will be used, the authority for such collection, its routine uses, and the effect upon the Individual of not providing the requested information;

(6) Assisting in the development of new or revised SORNs;

(7) Developing SORN reports for OMB and Congress;

(8) Submitting new or revised SORNS to the **Federal Register** for publication;

(9) Assisting in the development of computer matching systems;

(10) Preparing Privacy Act, Computer Matching, and other reports to OMB as required; and

(11) Evaluating PIA to ensure compliance with E-Government Act requirements.

(c) Other Privacy related responsibilities shall be shared by the NCPC Division Directors, the NCPC Chief Information Officer (CIO), the NCPC System Developers and Designers, the NCPC Configuration Control Board, the NCPC employees, and the Chairman of the Commission.

(1) The NCPC Division Directors shall be responsible for coordinating with the PAO the implementation of the requirements set forth in this part for Systems of Records applicable to their area of management and the preparation of PIA prior to development or procurement of new systems that collect, maintain or disseminate IFF. Specific responsibilities include:

(i) Reviewing existing SOR for need, relevance, and purpose for existence, and proposing SOR changes to the PAO as necessary in response to altered circumstances;

(ii) Reviewing existing SOR to ensure information is accurate, complete and up to date;

(iii) Coordinating with the PAO the preparation of new or revised SORN;

(iv) Coordinating with the PAO the development of an appropriate form for collection of Privacy Act information and including in the form a Privacy Act statement explaining the purpose for collecting the information, how it will be used, the authority for such collection, its routine uses, and the effect upon the Individual of not providing the requested information;

(v) Collecting information directly from individuals whenever possible;

(vi) Assisting the PAO with providing access to Individuals who request information in accordance with the procedures established in §§ 603.12, 603.13, 603.14 and 603.15;

(vii) Amending Records if and when appropriate, and working with the PAO to inform recipients of former Records of such amendments;

(viii) Ensuring that System information is used only for its stated purpose;

(ix) Establishing and overseeing appropriate administrative, technical, and physical safeguards to ensure security and confidentiality of Records; and

(x) Working with the SAOP, the PAO and Configuration Control Board(CCB) on SORs, preparing a PIA, if needed, and obtaining SAOP approval for a PIA prior to its publication on the NCPC Web site.

(2) The CIO shall be responsible for implementing IT security management to include security for information protected by the Privacy Act and the E-Government Act of 2002. Specific responsibilities include:

(i) Overseeing security policy for privacy data; and

(ii) Reviewing PIAs prepared for information security considerations.

(3) The NCPC System Developers and Designers shall be responsible for ensuring that the IT system design and specifications conform to privacy standards and requirements and that technical controls are in place for safeguarding personal information from unauthorized access.

(4) The NCPC CCB shall, among other responsibilities, verify that a PIA has been prepared prior to approving a request to develop or procure information technology that collects, maintains, or disseminates Information in Identifiable Form.

(5) The NCPC employees shall ensure that any personal information they use in the conduct of their official responsibilities is protected in accordance with the rules set forth in this part.

(6) The Chairman of the Commission shall be responsible for acting on all appeals of Adverse Determinations.

**§ 603.4 Standards used to Maintain Records.**

(a) Records Maintained by the NCPC shall contain only such information about an Individual as is relevant and necessary to accomplish a purpose NCPC must accomplish to comply with relevant statutes or Executive Orders of the President.

(b) Records Maintained by the NCPC and used to make a determination about an Individual shall be accurate, relevant, timely, and complete to assure a fair determination.

(c) Information used by the NCPC in making a determination about an Individual's rights, benefits, and privileges under federal programs shall be collected, to the greatest extent practicable, directly from the Individual. In deciding whether collection of information about an Individual, as opposed to a third party is practicable, the NCPC shall consider the following:

(1) Whether the information sought can only be obtained from a third party;

(2) Whether the cost to collect the information from an Individual is unreasonable compared to the cost of collecting the information from a third party;

(3) Whether there is a risk of collecting inaccurate information from a third party that could result in a determination adverse to the Individual concerned;

(4) Whether the information collected from an Individual requires verification by a third party; and

(5) Whether the Individual can verify information collected from third parties.

(d) The NCPC shall not Maintain Records describing how an Individual exercises rights guaranteed by the First Amendment to the Constitution unless the maintenance of the Record is expressly authorized by statute or by the Individual about whom the Record is Maintained or pertinent to and within the scope of an authorized law enforcement activity.

**§ 603.5 Notice to Individuals supplying information.**

(a) Each Individual asked to supply information about himself/herself to be added to a System of Records shall be informed by the NCPC of the basis for requesting the information, its potential use, and the consequences, if any, of not supplying the information. Notice to the Individual shall state at a minimum:

(1) The legal authority for NCPC's solicitation of the information and whether disclosure is mandatory or voluntary;

(2) The principal purpose(s) for which the NCPC intends to use the information;

(3) The potential routine uses of the information by the NCPC as published in a Systems of Records Notice; and

(4) The effects upon the individual, if any, of not providing all or any part of the requested Information to the NCPC.

(b) When NCPC collects information on a standard form, the notice to the Individual shall either be provided on the form, on a tear off sheet attached to the form, or on a separate form, whichever is deemed the most practical by the NCPC.

(c) NCPC may ask an Individual to acknowledge, in writing, receipt of the notice required by this section.

**§ 603.6 System of Records Notice or SORN.**

(a) The NCPC shall publish a notice in the **Federal Register** describing each System of Records 40-days prior to the establishment of a new or revision to an existing System of Records.

(b) The SORN shall include:

(1) The name and location of the System of Records. The name shall identify the general purpose, and the location shall include whether the system is located on the NCPC's main server or central files. The physical address of either shall also be included.

(2) The categories or types of Individuals on whom NCPC Maintains Records in the System of Records;

(3) The categories or types of Records in the System;

(4) The statutory or Executive Order authority for Maintenance of the System;

(5) The purpose(s) or explanation of why the NCPC collects the particular Records including identification of all internal and routine uses;

(6) The policies and practices of the NCPC regarding storage, retrieval, access controls, retention and disposal of Records;

(7) The title and business address of the agency official responsible for the identified System of Records;

(8) The NCPC procedures for notification to an Individual who requests if a System of Records contains a Record about the Individual; and

(9) The NCPC sources of Records in the System.

**§ 603.7 Procedures to safeguard Records.**

(a) The NCPC shall implement the procedures set forth in this section to insure sufficient administrative, technical and physical safeguards exist to protect the security and confidentiality of Records. The enumerated procedures shall also protect against any anticipated threats or hazards to the security of Records with the potential to cause substantial harm, embarrassment, inconvenience, or unfairness to any Individual on whom information is Maintained.

(b) Manual Records subject to the Privacy Act shall be maintained by the NCPC in a manner commensurate with the sensitivity of the information contained in the Records. The following minimum safeguards or safeguards affording comparable protection shall apply to manual Systems of Records:

(1) The NCPC shall post areas where Records are maintained or regularly used with an appropriate warning sign stating access to the Records shall be limited to authorized persons. The warning shall also advise that the Privacy Act prescribes criminal penalties for unauthorized disclosure of Records subject to the Act.

(2) During work hours, the NCPC shall protect areas in which Records are Maintained or regularly used by restricting occupancy of the area to authorized persons or storing the Records in a locked container and room.

(3) During non-working hours, access to Records shall be restricted by their storage in a locked storage container and room.

(4) Any lock used to secure a room where Records are stored shall not be capable of being disengaged with a master key that opens rooms other than those in which Records are stored.

(c) Computerized Records subject to the Privacy Act shall be maintained, at a minimum, subject to the safeguards recommended by the National Institute of Standards and Technology (NIST) Special Publications 800–53, Recommended Security Controls for Federal Information Systems and Organizations as revised from time to time or any superseding guidance offered by NIST or other federal agency charged with the responsibility for providing recommended safeguards for computerized Records subject to the Privacy Act.

(d) NCPC shall maintain a System of Records comprised of Office of Personnel Management (OPM) personnel Records in accordance with standards prescribed by OPM and published at 5 CFR 293.106—293.107.

**§ 603.8 Employee conduct.**

(a) Employees with duties requiring access to and handling of Records shall, at all times, take care to protect the integrity, security, and confidentiality of the Records.

(b) No employee of the NCPC shall disclose Records unless disclosure is permitted by § 603.10(b) of this part, by NCPC's FOIA Regulations, or disclosed to the Individual to whom the Record pertains.

(c) No employee of the NCPC shall alter or destroy a Record unless such Record or destruction is undertaken in the course of the employee's regular duties or such alteration or destruction is allowed pursuant to regulations published by the National Archives and Records Administration (NARA) or required by a court of competent jurisdiction. Records shall not be destroyed or disposed of while they are the subject of a pending request, appeal or lawsuit under the Privacy Act.

**§ 603.9 Government contracts.**

(a) When a contract provides for third party operation of a SOR on behalf of the NCPC to accomplish a NCPC function, the contract shall require that the requirements of the Privacy Act and the rules in this part be applied to such System.

(b) The Division Director responsible for the contract shall designate a NCPC employee to oversee and manage the SOR operated by the contractor.

**§ 603.10 Conditions for disclosure.**

(a) Except as set forth in paragraph (b) of this section, no Record contained in a SOR shall be disclosed by any means of communication to any person, or to another agency, unless prior written consent is obtained from the Individual to whom the Record pertains.

(b) The limitations on disclosure contained in paragraph (a) of this section shall not apply when disclosure of a Record is:

(1) To employees of the NCPC for use in the performance of their duties;

(2) Required by the Freedom of Information Act (FOIA), 5 U.S.C. 555;

(3) For a Routine Use as described in a SORN;

(4) To the Bureau of Census for statistical purposes, provided that the Record must be transferred in a form that precludes individual identification;

(5) To an Individual who provides NCPC adequate written assurance that the Record shall be used solely for statistical or research purposes, provided that the Record must be transferred in a form that precludes Individual identification;

(6) To the NARA because the Record warrants permanent retention because of historical or other national value as determined by NARA or to permit NARA to determine whether the Record has such value;

(7) To a law enforcement agency for a civil or criminal law enforcement activity, provided that the law enforcement agency must submit a written request to the NCPC specifying the Record(s) sought and the purpose for which they will be used;

(8) To any person upon demonstration of compelling information that an Individual's health or safety is at stake and provided that upon disclosure, notification is given to the Individual to whom the Record pertains at that Individual's last known address;

(9) To either House of Congress, and any committee or subcommittee thereof, to include joint committees of both houses and any subcommittees thereof, when a Record falls within their jurisdiction;

(10) To the Comptroller General, or any of his authorized representatives, to allow the Government Accountability Office to perform its duties;

(11) Pursuant to a court order by a court of competent jurisdiction; and

(12) To a consumer reporting agency trying to collect a claim of the government as authorized by 31 U.S.C. 3711(e).

**§ 603.11 Accounting of disclosures.**

(a) Except for disclosures made under §§ 603.10(b)(1)–(2), when a Record is disclosed to any person, or to another agency, NCPC shall prepare an accounting of the disclosure. The accounting shall Record the date, nature, and purpose of the disclosure and the name and address of the person or agency to whom the disclosure was made. The NCPC shall maintain all accountings for a minimum of five years or the life of the Record, whichever is greatest, after the disclosure is made.

(b) Except for disclosures under § 603.10(b)(7), accountings of all disclosures shall be made available to the Individual about whom the disclosed Records pertains at his/her request. Such request shall be made in accordance with the requirements of § 603.15.

(c) For any disclosure for which an accounting is made, if a subsequent amendment or correction or notation of dispute is made to a Record by the NCPC in accordance with the requirements of section 603.14, the Individual and/or agency to whom the Record was originally disclosed shall be informed.

**§ 603.12 Requests for notification of the existence of Records.**

(a) An Individual seeking to determine whether a System of Records contains Records pertaining to him/her shall do so by appearing in person at NCPC's official place of business or by written correspondence to the NCPC PAO. In-person requests shall be by appointment only with the PAO on a Workday during regular office hours. Written requests sent via the U.S. mail shall be directed to the Privacy Act Officer at NCPC's official address listed at *www.ncpc.gov.* If sent via email or facsimile, the request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling of Privacy Act Requests, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall state that the Individual is seeking information concerning the existence of Records about himself/herself and shall supply information describing the System where such Records might be maintained as set forth in a System of Record Notice.

(c) The NCPC PAO shall notify the Requester in writing within 20-Workdays of the Request whether a System contains Records pertaining to him/her unless the Records were compiled in reasonable anticipation of a civil action or proceeding or the Records are NCPC employee Records under the jurisdiction of the OPM. In both of the later cases the Request shall be denied. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. If the PAO denies the Request, the response shall state the reason for the denial and advise the Requester of the right to appeal the decision within 60 days of the date of the letter denying the request in accordance with the requirements set forth in § 603.16.

**§ 603.13 Requests for access to Records.**

(a) An Individual seeking access to Records about himself/herself shall do so by appearing in person at NCPC's official place of business or by written correspondence to the NCPC Privacy Act Officer. In-person requests shall be by appointment only with the Privacy Act Officer on a Workday during regular office hours. For written requests sent via the U.S. mail, the Request shall be directed to the Privacy Act Officer at NCPC's official address listed at *www.ncpc.gov.* If sent via email or facsimile, the request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling of Privacy Act Requests, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall:

(1) State the Request is made pursuant to the Privacy Act;

(2) Describe the requested Records in sufficient detail to enable their location including, without limitation, the dates the Records were compiled and the name or identifying number of each System of Record in which they are kept as identified in the list of NCPC's SORNs published on its Web site; and

(3) State pursuant to the fee schedule set forth in § 603.17 a willingness to pay all fees associated with the Privacy Act Request or the maximum fee the Requester is willing to pay.

(c) The NCPC shall require identification as follows before releasing Records to an Individual:

(1) An Individual Requesting Privacy Act Records in person shall present a valid, photographic form of identification such as a driver's license, employee identification card, or passport that renders it possible for the PAO to verify that the Individual is the same Individual as contained in the requested Records.

(2) An Individual Requesting Privacy Act Records by mail shall state their full name, address and date of birth in their correspondence. The Request must be signed and the signature must either be notarized or submitted with a statement signed and dated as follows: I declare under penalty of perjury that the foregoing facts establishing my identification are true and correct.

(d) The PAO shall determine within 20 Workdays whether to grant or deny an Individual's Request for Access to the requested Record(s) and notify the Individual in writing accordingly. The PAO's response shall state his/her determination and the reasons therefor. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. In the case of an Adverse Determination, the written

notification shall advise the Individual of his/her right to appeal the Adverse Determination in accordance with the requirements of § 603.16.

**§ 603.14 Requests for Amendment or Correction of Records.**

(a) An Individual seeking to amend or correct a Record pertaining to him/her that he/she believes to be inaccurate, irrelevant, untimely or incomplete shall submit a written request to the PAO at the address listed on NCPC's official Web site *www.ncpc.gov.* If sent via email or facsimile, the Request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall:

(1) State the Request is made pursuant to the Privacy Act;

(2) Describe the requested Record in sufficient detail to enable its location including, without limitation, the dates the Records were compiled and the name or identifying number of the System of Record in which the Record is kept as identified in the list of NCPC's SORNs published on its Web site;

(3) State in detail the reasons why the Record, or objectionable portion(s) thereof, is/are not accurate, relevant, timely or complete.

(4) Include copies of documents or evidence relied upon in support of the Request for Amendment or Correction; and

(5) State specifically, and in detail, the changes sought to the Record, and if the changes include rewriting the Record, or portions thereof, or adding new language, the Individual shall propose specific language to implement the requested changes.

(c) A request to Amend or Correct a Record shall be submitted only if the Requester has previously requested and been granted access to the Record and has inspected or been given a copy of the Record.

(d) The PAO shall render a decision within 20 workdays. If the Request for an Amendment or Correction fails to meet the requirements of §§ (b)(1)–(5) of this Section, the PAO shall advise the Individual of the deficiency and advise what additional information is required to act upon the Request. The timeframe for a decision on the Request shall be tolled (stopped) during the pendency of a request for additional information and shall resume when the additional information is received. If the Requester fails to submit the requested additional information within a reasonable time, the PAO shall reject the Request.

(e) The PAO's decision on a Request for Amendment or Correction shall be in writing and state the basis for the decision. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. In the event of an Adverse Determination, the written notification shall advise the Individual of his/her right to appeal the Adverse Determination in accordance with the requirements of § 603.16.

(f) If the PAO approves the Request for Amendment or Correction, the PAO shall ensure that subject Record is amended or corrected, in whole or in part. If the PAO denies the Request for Amendment or Correction, a notation of dispute shall be noted on the Record. If an accounting of disclosure has been made pursuant to Section 603.11, the PAO shall advise all previous recipients of the Record that an amendment or correction or notation of dispute has been made and, if applicable, the substance of the change.

**§ 603.15 Requests for accounting of Record disclosures.**

(a) An Individual seeking information regarding an accounting of disclosure of a Record pertaining to him/her made in accordance with § 603.11 shall submit a written request to the PAO at the address listed on NCPC's official Web site *www.ncpc.gov.* If sent via email or facsimile, the Request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling, the words Privacy Act Request shall appear prominently on the envelope or the subject line of an email or facsimile cover sheet.

(b) The Request shall:

(1) State the Request is made pursuant to the Privacy Act; and

(2) Describe the requested Record in sufficient detail to determine whether it is or is not contained in an accounting of disclosure.

(c) The NCPC PAO shall notify the Requester in writing within 20-Workdays of the Request and advise if the Record was included in an accounting of disclosure. In the event of a disclosure, the response shall include the date, nature, and purpose of the disclosure and the name and address of the person or agency to whom the disclosure was made. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. In the event of an Adverse Determination, the written notification shall advise the Individual of his/her right to appeal the Adverse Determination in accordance with the requirements of § 603.16.

**§ 603.16 Appeals of Adverse Determinations.**

(a) Except for appeals pursuant to subsection (d) below, an appeal of an Adverse Determination shall be made in writing addressed to the Chairman (Chairman) of the National Capital Planning Commission at the address listed on NCPC's official Web site *www.ncpc.gov.* If sent via email or facsimile, the Request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling, the words Privacy Act Request shall appear prominently on the envelope or the subject line of an email or facsimile cover sheet. An appeal of an Adverse Determination shall be made within 30 Workdays of the date of the decision.

(b) An appeal of an Adverse Determination shall include a statement of the legal, factual or other basis for the Requester's objection to an Adverse Determination; a daytime phone number or email where the Requester can be reached if the Chairman requires additional information or clarification regarding the appeal; copies of the initial request and the PAO's written response; and for an Adverse Determination regarding a fee waiver, a demonstration of compliance with the NCPC's FOIA Regulations.

(c) The Chairman shall respond to an appeal of an Adverse Determination in writing within 20 Workdays of receipt of the appeal. If the Chairman grants the appeal, the Chairman shall notify the Requester, and the NCPC shall take prompt action to respond affirmatively to the original Request upon receipt of any fees that may be required. If the Chairman denies the appeal, the letter shall state the reason(s) for the denial, a statement that the decision is final, and advise the Requester of the right to seek judicial review of the denial in the District Court of the United States in either the district in which the Requester resides, the district in which the Requester has his/her principal place of business or the District of Columbia.

(d) The appeal of an Adverse Determination based on OPM jurisdiction of the Records shall be made to OPM pursuant to 5 CFR 297.306.

(e) The NCPC shall not act on an appeal of an Adverse Determination if the underlying Request becomes the subject of litigation.

(f) A party seeking court review of an Adverse Determination must first appeal the Adverse Determination under this section.

**§ 603.17 Fees.**

(a) The NCPC shall charge for the duplication of Records under this subpart in accordance with the schedule of fees set forth in NCPC's FOIA Regulations. The NCPC shall not charge duplication fees when the Requester asks to inspect the Records personally but is provided copies at the discretion of the agency.

(b) The NCPC shall not charge any fees for the search for or review of Records requested by an Individual.

**§ 603.18 Privacy Impact Assessments.**

(a) Consistent with the requirements of the E-Government Act and OMB Memorandum M–03–22, the NCPC shall conduct a PIA before:

(1) Developing or procuring IT systems or projects that collect, maintain, or disseminate IFF; or

(2) Installing a new collection of information that will be collected, maintained, or disseminated using IT and includes IFF for 10 or more persons (excluding agencies, instrumentalities or employees of the federal government).

(b) The PIA shall be prepared through the coordinated effort of the NCPC's privacy Officers (SAOP, PAO), Division Directors, CIO, and IT staff.

(c) As a general rule, the level of detail and content of a PIA shall be commensurate with the nature of the information to be collected and the size and complexity of the IT system involved. Specifically, a PIA shall analyze and describe:

(1) The information to be collected;

(2) The reason the information is being collected;

(3) The intended use for the information;

(4) The identity of those with whom the information will be shared;

(5) The opportunities Individuals have to decline to provide the information or to consent to particular uses and how to consent;

(6) The manner in which the information will be secured; and

(7) The extent to which the system of records is being created under the Privacy Act.

(d) In addition to the information specified in §§ (b)(1)–(7) above, the PIA must also identify the choices NCPC made regarding an IT system or collection of information as result of preparing the PIA.

(e) The CCB shall verify that a PIA has been prepared prior to approving a request to develop or procure information technology that collects, maintains, or disseminates Information in Identifiable Form.

(f) The SAOP shall approve and sign the NCPC's PIA. If the SAOP is the Contracting Officer for the IT system that necessitated preparation of the PIA, the Executive Director shall approve and sign the PIA.

(g) Following approval of the PIA, the NCPC shall post the PIA document on the NCPC Web site located at *www.ncpc.gov.*

Dated: July 24, 2017.

**Anne R. Schuyler,**

*General Counsel.*

[FR Doc. 2017–15882 Filed 7–31–17; 8:45 am]

BILLING CODE 7502–02–P

## NATIONAL CREDIT UNION ADMINISTRATION

## 12 CFR Part 741

**RIN 3133–AE77**

## Requirements for Insurance; National Credit Union Share Insurance Fund Equity Distributions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The NCUA Board (Board) proposes to amend its share insurance requirements rule to provide federally insured credit unions (FICUs) with greater transparency regarding the calculation of a FICU's proportionate share of a declared equity distribution from the National Credit Union Share Insurance Fund (NCUSIF) and to add a temporary provision to govern NCUSIF equity distributions resulting from the Corporate System Resolution Program. The Board also proposes to prohibit a FICU that terminates federal share insurance coverage during a particular calendar year from receiving an NCUSIF equity distribution for that calendar year to provide greater fairness to FICUs that remain federally insured. The Board proposes to make technical and conforming amendments to other aspects of the share insurance requirements rule in light of these proposed changes.

**DATES:** Comments must be received on or before Tuesday, September 5, 2017.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Requirements for Insurance; National Credit Union Share Insurance Fund Equity Distributions'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

**PUBLIC INSPECTION:** You can view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314–3428, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

**FOR FURTHER INFORMATION CONTACT:** Benjamin M. Litchfield, Staff Attorney, Office of General Counsel, at (703) 518–6540; or Steve Farrar, Supervisory Financial Analyst, Office of Examination and Insurance, at (703) 518–6360. You may also contact them at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Section-by-Section Analysis
III. Technical and Conforming Amendments
IV. Regulatory Procedures

### I. Background

NCUA is the chartering authority for federal credit unions and the federal share insurer for FICUs.[1] In NCUA's capacity as federal share insurer, the Board, among other things, administers the NCUSIF, a revolving fund created within the United States Treasury to

[1] NCUA's authority to charter federal credit unions is contained in Title I of the Federal Credit Union Act (12 U.S.C. 1752–1775), and its various authorities as federal share insurer are contained in Title II of the Federal Credit Union Act (12 U.S.C. 1781–1790e). Title III of the Federal Credit Union Act (12 U.S.C. 1795–1795k) governs the Board's responsibilities overseeing the NCUA Central Liquidity Facility, a federal instrumentality that provides liquidity for member credit unions.

provide federal share insurance coverage to FICU members.[2]

The Federal Credit Union Act (FCU Act) requires a FICU to pay and maintain an NCUSIF capitalization deposit equal to 1 percent of a FICU's insured shares, in part, to capitalize the NCUSIF.[3] The amount of a FICU's required NCUSIF capitalization deposit is adjusted periodically to reflect changes in the FICU's insured shares.[4] For a FICU with assets less than $50 million, this adjustment occurs annually.[5] For all other FICUs, this adjustment occurs semiannually.[6] A FICU that terminates federal share insurance coverage is entitled to have its NCUSIF capitalization deposit returned within a reasonable time.[7]

The FCU Act also requires a FICU to pay a federal share insurance premium to the NCUSIF at such times as the Board prescribes but no more than twice in any calendar year.[8] The FCU Act permits the Board to assess a federal share insurance premium if the NCUSIF's equity ratio is less than 1.3 percent, but only in an amount necessary to restore the equity ratio to 1.3 percent.[9] However, if the Board projects that the NCUSIF's equity ratio will fall below 1.2 percent within the next six months or if the NCUSIF's equity ratio actually falls below 1.2 percent at any time, the FCU Act requires the Board to implement a restoration plan or charge a premium.[10]

Furthermore, the FCU Act requires the Board to make a proportionate distribution from the NCUSIF to FICUs for each year where, at the end of the year, the following circumstances are present: (1) The NCUSIF has no outstanding loans from the United States Treasury and any outstanding interest on those loans has been repaid; (2) the NCUSIF's equity ratio exceeds the normal operating level set by the Board;[11] and (3) the NCUSIF's available assets ratio exceeds 1 percent.[12] Where those circumstances are present, the FCU Act requires the Board to make the maximum possible distribution that does not reduce the NCUSIF's equity ratio below its normal operating level or reduce the NCUSIF's available assets ratio below 1 percent.[13]

Section 741.4 of NCUA's regulations implements these requirements.[14] The Board originally adopted this rule on October 17, 1984.[15] The provisions of § 741.4 have only been slightly modified in the past 33 years since the rule was adopted.[16] However, because the Board is contemplating the possibility of closing the Temporary Corporate Credit Union Stabilization Fund (TCCUSF), a temporary revolving fund created to address problems in the corporate credit union system that arose as part of the Great Recession,[17] and transferring all of its remaining assets to the NCUSIF, the Board has reexamined § 741.4 and believes amendments to the rule are necessary to provide FICUs with greater fairness, transparency, and predictability regarding NCUSIF equity distributions.

The Board specifically proposes to amend § 741.4(e) to adopt a method for calculating a FICU's proportionate share of a declared NCUSIF equity distribution. The Board has historically determined the amount of a FICU's proportionate share based on the FICU's daily NCUSIF capitalization deposit balance. The Board recognizes that this method is not clearly stated in § 741.4(e) or any formal guidance to the credit union industry. Furthermore, the Board has identified flaws in this approach that may give an unfair advantage to FICUs with assets over $50 million. Accordingly, the Board believes that amending § 741.4(e) is necessary to provide FICUs with greater fairness, transparency, and predictability regarding this calculation.

The Board also proposes to amend § 741.4(j)(1)(ii) to change its current policy of making an NCUSIF equity distribution to a FICU that terminates federal share insurance coverage during the calendar year applicable to an NCUSIF equity distribution.[18] The Board has historically made such a distribution under these circumstances based on the amount of time during that year that the FICU was federally insured by NCUA. However, the Board believes that amending § 741.4(j)(1)(ii) is necessary to promote greater fairness to FICUs that remain federally insured by NCUA throughout the entire calendar year.

Moreover, the Board proposes to make technical and conforming amendments to §§ 741.4(b) and (i) to accommodate the proposed amendments to §§ 741.4(e) and 741.4(j)(1)(ii) and to eliminate Appendix A to part 741, which provides examples of partial year NCUSIF assessments and distributions under § 741.4, in favor of developing more user-friendly and easily updated examples that can be posted on NCUA's Web site. Finally, the Board proposes to add temporary § 741.13 to address any NCUSIF equity distributions related to the winding down of the Corporate System Resolution Program, a special purpose initiative to stabilize the corporate credit union system funded principally through advances from the TCCUSF. Because the Corporate System Resolution Program involved a series of corporate assessments against FICUs over multiple years and any NCUSIF equity distributions related to that program would likely take place over multiple years and in varying amounts, the Board believes that any NCUSIF equity distributions related to the Corporate System Resolution Program should be addressed in a separate, temporary provision of the rule. For purposes of this temporary provision, any NCUSIF equity distributions declared for calendar years 2017 through 2021 are deemed to be ''resulting from the Corporate System Resolution Program.''

While not part of the specific amendments proposed in this rulemaking, the Board is also requesting comments on ways to improve the current process for assessing and collecting federal share insurance premiums. The Board is interested in providing FICUs with greater fairness, transparency, and predictability in this

[2] 12 U.S.C. 1783.

[3] *Id.* at 1782(c)(1)(A)(i).

[4] *Id.* at 1782(c)(1)(A)(iii).

[5] *Id.* at 1782(c)(1)(A)(iii)(I).

[6] *Id.* at 1782(c)(1)(A)(iii)(II).

[7] *Id.* at 1782(c)(1)(B)(i). A FICU may terminate federal share insurance coverage by converting to or merging into a nonfederally insured credit union or a noncredit union financial institution such as a mutual savings bank. If permitted under state law, a federally insured, state-chartered credit union may also convert to private share insurance. *See* 12 CFR 708b (NCUA's regulation governing mergers and conversions to private share insurance). A FICU may also terminate federal share insurance coverage through voluntary or involuntary liquidation.

[8] *Id.* at 1782(c)(2)(A).

[9] *Id.* at 1782(c)(2)(B). The equity ratio is the amount of NCUSIF capitalization, including FICU NCUSIF capitalization deposits and retained earnings of the NCUSIF (net of direct liabilities of the NCUSIF and contingent liabilities for which no provision for losses has been made) divided by the aggregate amount of insured FICU shares. *Id.* at 1782(h)(2).

[10] *Id.* at 1782(c)(2)(C), (D).

[11] The NCUSIF equity ratio's normal operating level is between 1.2 percent and 1.5 percent as specified by the Board. *Id.* at 1782(h)(4). The normal operating level is currently 1.3 percent.

[12] *Id.* at 1782(c)(3)(A)(i)–(iii). The available assets ratio is the total of cash plus market value of unencumbered investments (less direct liabilities and contingent liabilities for which no provision for loss has been made) divided by the aggregate amount of insured FICU shares. *Id.* at 1782(h)(1).

[13] *Id.* at 1782(c)(3)(B)(i)–(ii).

[14] 12 CFR 741.4.

[15] 49 FR 40561 (Oct. 17, 1984).

[16] The most recent substantive amendments addressed how newly chartered FICUs and FICUs that terminate federal share insurance are affected by any NCUSIF premium or deposit replenishment assessments in the same year. *See* 74 FR 63277 (Dec. 3, 2009).

[17] 12 U.S.C. 1790e.

[18] This includes a FICU that terminates federal share insurance through voluntary or involuntary liquidation.

regard. The Board intends to address the assessment and collection of federal share insurance premiums in a separate rulemaking based, in part, on the comments received. One possible improvement the Board is considering is to calculate federal share insurance premiums as consistently as possible with how the Board proposes to calculate each FICU's proportionate share of an NCUSIF equity distribution.

The Board requests comment on all aspects of this proposed rule on or before Tuesday, September 5, 2017.

## II. Section-by-Section Analysis

*Section 741.4(e) Distribution of NCUSIF Equity*

The Board proposes to amend § 741.4(e) to adopt a method for calculating a FICU's proportionate share of an NCUSIF equity distribution. NCUA has historically determined the amount of a FICU's proportionate share based on the FICU's daily NCUSIF capitalization deposit balance. Under this method, NCUA determines a FICU's proportionate share of an NCUSIF equity distribution by dividing the total dollar amount of the NCUSIF equity distribution by the total dollar amount of the NCUSIF capitalization deposits. Expressed as a percentage, this quotient represents the distribution (or dividend) rate. NCUA then divides the distribution rate by 365 (the number of calendar days in a year) to arrive at a daily distribution rate. Finally, NCUA applies this dividend rate to a FICU's daily NCUSIF capitalization deposit balance to determine that FICU's proportionate share.[19]

The principal advantage of this method is that it treats an NCUSIF equity distribution similarly to a dividend on an investment such as a share certificate. Each FICU's proportionate share is determined based on its NCUSIF capitalization deposit which the Board invests in interest-bearing government securities and other lawful investments for public funds of the United States to generate revenue for the NCUSIF.[20] However, the Board recognizes that this method may give a FICU with $50 million or more in assets an unfair advantage over smaller FICUs. NCUA adjusts a smaller FICU's NCUSIF capitalization deposit annually in April using insured shares reported on the December 31 Call Report. As a result, for the first 3 months of the calendar year applicable to the NCUSIF equity distribution, the daily NCUSIF capitalization deposit balance is based on Call Report data that is almost two years old. Moreover, for the remainder of the calendar year, the daily NCUSIF capitalization deposit balance is based on the previous year's Call Report data. As a result, this method not only fails to capture insured share growth at a smaller FICU during the calendar year, but also fails to capture insured share growth during the previous calendar year for a full 3 months until NCUA adjusts the NCUSIF capitalization deposit in April.

In contrast, this method does capture insured share growth at a larger FICU during the calendar year. NCUA adjusts a larger FICU's NCUSIF capitalization deposit semiannually in April using insured shares reported on the December 31 Call Report and in October using insured shares reported on the June 30 Call Report. This means that for the last 3 months of the calendar year applicable to the NCUSIF equity distribution, the daily NCUSIF capitalization deposit balance is based on current Call Report data. As a result, this method will capture insured share growth at a larger FICU during the calendar year, giving the larger FICU an unfair advantage over smaller FICUs. Recognizing this inherent unfairness, the Board proposes to adopt a new method for calculating a FICU's proportionate share of an NCUSIF equity distribution that is more equitable to smaller FICUs and uses more contemporary share insurance activity.

In determining the appropriate method for calculating a FICU's proportionate share, the Board seeks to develop a method that: (1) Is based on a FICU's insured shares; (2) uses the most current and accurate data readily accessible through a FICU's quarterly Call Reports; (3) NCUA can reasonably administer without additional regulatory burden on FICUs or administrative burden on the agency; and (4) does not give an unfair advantage to one class of FICUs over another.

The Board believes that using a FICU's insured shares (as opposed to total assets or some other measure, such as the total number of FICUs in the NCUSIF system) is appropriate because a FICU's insured share balance directly relates to the operation of the NCUSIF and is a factor in calculating the NCUSIF equity ratio and average assets ratio which trigger an NCUSIF equity distribution. Furthermore, the Board believes that using the most current and accurate data reasonably available through a FICU's quarterly Call Reports allows NCUA to easily capture the actual proportionate size of each FICU in the NCUSIF system without giving an unfair timing advantage to one class of FICUs over another. The use of Call Report data also avoids additional regulatory burden on FICUs or administrative burden on NCUA.

Consequently, the Board has considered and rejected a number of alternative methods for calculating a FICU's proportionate share, including the use of a FICU's total assets or the total number of FICUs at the end of the calendar year. The use of a FICU's total assets bears no relation to a FICU's insured shares and unfairly advantages larger FICUs that can leverage their size to increase total assets at the expense of smaller FICUs. Likewise, calculating a FICU's proportionate share based on the total number of FICUs in the NCUSIF system has no relationship to an individual FICU's insured shares and would unfairly advantage smaller FICUs at the expense of larger FICUs. Accordingly, the Board has considered and rejected these two approaches, among others.

The Board is considering adopting one of two methods for calculating a FICU's proportionate share of an NCUSIF equity distribution: (1) The average of the four quarter-end insured share balances reported on the FICU's Call Reports during the calendar year applicable to an NCUSIF equity distribution, or (2) insured share balances reported on the FICU's December 31 Call Report during the calendar year applicable to an NCUSIF equity distribution. Of the two methods, the Board believes the four quarter average method has more advantages, such as accounting for seasonal fluctuations, and has therefore proposed corresponding regulatory text for § 741.4 reflecting the four quarter average method in this notice of proposed rulemaking. However, the Board is requesting comment on both methods and will consider adopting one over the other based on the persuasiveness of the comments.

Four Quarter Average of Insured Shares Method

As noted above, the Board is considering using the average of eligible FICUs' quarter-end insured share balances as reported on their quarterly Call Reports for the year applicable to the NCUSIF equity distribution.[21]

[19] To address mergers completed during the calendar year applicable to the distribution, the NCUSIF equity distribution due to a merged FICU based on its independent NCUSIF capitalization deposit balance was paid to the continuing credit union.

[20] 12 U.S.C. 1783(c).

[21] Under this proposed rule, credit unions that terminate NCUSIF insurance during the year

Continued

Under this proposed method, NCUA would determine a FICU's proportionate share of an NCUSIF equity distribution by dividing the dollar amount of the total NCUSIF equity distribution by the aggregate average dollar amount of insured shares for FICUs eligible for a distribution as reported on each quarter-end Call Report for the calendar year applicable to the distribution. NCUA would then multiply the proportionate share by a FICU's average dollar amount of insured shares. The Board would determine a FICU's average dollar amount of insured shares by adding the dollar amounts of insured shares reported in each of the FICU's quarterly Call Reports for the year applicable to the distribution, and then dividing by four.[22]

The following illustrates the application of the proposed method for calculating a FICU's proportionate share of an NCUSIF equity distribution. Assume the Board declares an NCUSIF equity distribution of $100 million in the form of a dividend. Also assume that the aggregate average dollar amount of insured shares for FICUs eligible for a distribution for the calendar year is $100 billion. The proportionate share of $100 million and $100 billion is 0.001 or 0.1%. XYZ Credit Union, a fictitious FICU, reports quarterly insured shares of $10 million, $12 million, $11 million, and $12 million, respectively. As a result, XYZ Credit Union has an average dollar amount of insured shares of $11.25 million (adding $10 million, $12 million, $11 million, and $12 million together and dividing by 4 equals $11.25 million). Multiplying XYZ Credit Union's average dollar amount of insured shares by its proportionate share of the dollar amount of the NCUSIF equity distribution and the aggregate average dollar amount of insured shares for FICUs eligible for a distribution yields a proportionate dividend of $11,250 ($11.25 million multiplied by 0.001 equals $11,250).

The principal advantage of this method for calculating a FICU's proportionate share is that it adjusts for seasonal fluctuations in insured share levels. It also removes any incentive to inflate year-end insured share levels. Adjusting for seasonal fluctuations in insured share levels allows NCUA to make a proportionate distribution based on the actual average size of a FICU over the calendar year. In addition, this method for calculating a FICU's proportionate share is based on publicly available information contained in each FICU's quarterly Call Reports. This information is also periodically examined by NCUA and state regulators. Furthermore, this method would not increase regulatory burden on FICUs because they currently report insured shares in their quarterly Call Reports.

However, this method for calculating a FICU's proportionate share poses some disadvantages. First, this method is somewhat more complex than simply using year-end insured share balances. For example, NCUA has to separately track FICUs that merge during the calendar year to combine their insured shares. Consequently, this method could be more administratively burdensome for NCUA. Second, this method does not correspond exactly to the other calculations required by § 741.4(e). In particular, both the NCUSIF equity ratio and the available assets ratio are, by statute, calculated based on the aggregate amount of insured shares in FICUs as of the December 31 Call Report.[23] The Board believes the advantages of this approach to calculating a FICU's proportionate share of an NCUSIF equity distribution outweigh the disadvantages and requests comment on this proposed calculation method. The Board specifically requests comment on whether a longer look-back period, such as 18 to 24 months, is appropriate to more accurately capture the proportionate size of each FICU. The Board may adjust the proposed calendar year look-back period based on the persuasiveness of the comments.

Year-End Insured Share Balance Method

Alternatively, the Board is considering using eligible FICUs' year-end insured share balances as the basis for calculating their proportionate share of an NCUSIF equity distribution. Under this method, NCUA would determine a FICU's proportionate share by dividing the dollar amount of an NCUSIF equity distribution by the aggregate amount of insured shares in all FICUs as reported on the December 31 Call Report for the year applicable to the distribution. That proportionate share would then be multiplied by the amount of insured shares reported in the FICU's December 31 Call Report for the year applicable to the distribution to determine each FICU's proportionate share.

The following illustrates the application of the proposed method for calculating a FICU's proportionate share of an NCUSIF equity distribution. Assume the Board declares an NCUSIF equity distribution of $100 million in the form of a dividend. Also assume that the aggregate average dollar amount of insured shares for FICUs eligible for a distribution for the calendar year is $100 billion. The proportionate share of $100 million and $100 billion is 0.001 or 0.1%. XYZ Credit Union, a fictitious FICU, reports insured shares of $11 million on its December 31 Call Report. Multiplying XYZ Credit Union's year-end insured shares for the year applicable to the distribution by the proportionate share of the dollar amount of the NCUSIF equity distribution and the aggregate average dollar amount of insured shares for FICUs eligible for a distribution yields a proportionate NCUSIF equity distribution of $11,000 ($11 million multiplied by 0.001 equals $11,000).

This method for calculating a FICU's proportionate share of an NCUSIF equity distribution has several advantages. First, NCUA would not need to create a special rule regarding mergers because all merger activity for the calendar year would be captured in the continuing FICU's December 31 Call Report. Second, NCUA would not need to create a special rule regarding terminations of federal share insurance because a FICU that terminates federal share insurance coverage during the calendar year would not file a December 31 Call Report. Third, NCUA currently uses this method when calculating: (1) The proportionate share of an NCUSIF equity distribution paid to a financial institution that converts to federal share insurance during the calendar year from private share insurance or through conversion to a credit union from a bank;[24] (2) the NCUSIF equity ratio;[25] (3) the available assets ratio;[26] and (4) the dollar amount of any federal share insurance premiums.[27]

However, this method for calculating a FICU's proportionate share does not account for seasonal fluctuations in share levels. As a result, a FICU that experiences a drop off in the amount of insured shares in the fourth quarter would receive a smaller NCUSIF equity distribution even though that FICU maintained a higher amount of insured shares over the calendar year.

applicable to the distribution are not eligible to receive a distribution.

[22] To address the effect of mergers of NCUSIF insured credit unions throughout the calendar year, the Board would combine the dollar amounts of insured shares reported separately by merging FICUs prior to the consummation of any merger with the dollar amounts of insured shares reported separately by the continuing FICU when calculating the continuing FICU's average dollar amount of insured shares. This accounts for the merger as if it were in effect for the entire year given both institutions were NCUSIF insured.

[23] 12 U.S.C. 1782(c)(4).

[24] 12 CFR 741.4(i)(1)(v).

[25] 12 U.S.C. 1782(h)(2); 12 CFR 741.4(b).

[26] *Id.* at 1782(h)(1); *Id.* at 741.4(b).

[27] *Id.* at 1782(c)(2)(A); *Id.* at 741.4(d).

Accordingly, this approach may not accurately reflect the actual proportionate share of each FICU in the NCUSIF system. Furthermore, the Board is concerned that this approach may create an incentive for some FICUs to increase insured shares at the end of the reporting year in an attempt to receive a larger NCUSIF equity distribution. Any such attempts to receive a larger NCUSIF equity distribution could lead to inequities, and in extreme cases, potential safety and soundness issues. Additionally, significant increases in insured shares at year-end would lower the NCUSIF's equity ratio, all else being equal, and potentially lower the amount available for distribution.

The Board requests comment on this proposed calculation method. Particularly, the Board requests comment on how this proposed calculation method could be improved to address the Board's concerns regarding seasonal fluctuations, any attempts to increase a FICU's year-end insured share balance, and any other relevant aspects of this approach.

*Section 741.4(j) Conversion From, or Termination of, Federal Share Insurance*

The Board proposes to amend § 741.4(j)(1)(ii) to prohibit NCUSIF equity distributions to FICUs that terminate federal share insurance coverage during the calendar year.[28] Currently, if a FICU terminates federal share insurance coverage during the calendar year that FICU is entitled to receive a NCUSIF equity distribution based on the FICU's insured shares as of the last day of the most recently ended reporting period reduced by the number of months remaining in the calendar year after the FICU terminates coverage.[29]

The Board adopted the current calculation methodology in 2010 to simplify the manner in which an NCUSIF equity distribution is made to a FICU that terminates federal share insurance.[30] The Board reasoned that this simplification was appropriate ''particularly since the contribution of a departing credit union to future distributions diminishes with the passage of time.'' [31] While the Board has historically attempted to recognize the contribution of a departing credit union, the Board believes that prohibiting NCUSIF equity distributions to FICUs that terminate federal share insurance coverage is a more fair and reasonable approach than the Board's current policy.

The Board favors this approach because it is more equitable to FICUs that remain federally insured by NCUA throughout the calendar year and consistent with the assessment of federal share insurance premiums. A FICU that terminates federal share insurance coverage before the assessment of a premium is not required to pay that premium.[32] Because that FICU is not required to bear the risk of federal share insurance coverage (*i.e.,* an assessment of a federal share insurance premium or an increase in the FICU's required NCUISF capitalization deposit), the Board believes it would be inherently unfair to FICUs that remain federally insured by NCUA to allow a FICU that terminates coverage to receive the rewards of federal share insurance coverage (*i.e.,* an NCUSIF equity distribution).

The Board also favors this approach because it parallels general corporate practice regarding shareholder equity distributions. A corporate shareholder that sells stock before a distribution is declared generally forfeits the right to an equity distribution from the corporation.[33] This clear, bright-line rule ensures that a corporation is able to ascertain the exact number of individuals who should receive an equity distribution without significant litigation risk from former shareholders or previously unknown claimants. Likewise, adopting a clear, bright-line rule for an NCUSIF equity distribution allows the Board to reasonably ascertain the FICUs to which it must make distributions. Furthermore, this approach allocates the risk of forfeiting an NCUSIF equity distribution directly to the entity in the best position to avoid that risk, namely the FICU terminating federal share insurance coverage. The Board believes that a FICU considering the economic advisability of terminating federal share insurance coverage is in the best position to avoid forfeiting an NCUSIF equity distribution because the Board publishes quarterly reports on the condition of the NCUSIF that provide ample opportunity to determine whether an NCUSIF equity distribution is likely for that calendar year. Because of this advanced notice, the Board believes that the responsibility should fall on the FICU to make an independent business decision whether the benefits of receiving the NCUSIF equity distribution outweigh the benefits terminating federal share insurance coverage.

While the Board believes that the proposed change to § 741.4(j)(1)(ii) presents a more equitable and reasonable approach for handling NCUSIF equity distributions to a former FICU than the Board's current policy, the Board recognizes that this is not the only available approach. Accordingly, the Board requests comment on this aspect of the proposed rule and may make modifications to this approach depending on the persuasiveness of the comments.

The Board requests specific comments on how to address a FICU that terminates federal share insurance coverage through liquidation. One approach that the Board is considering is to continue to make NCUSIF equity distributions to a liquidated FICU until the closure of its liquidation estate. In other words, the Board would interpret the termination date for federal share insurance coverage to be the date the liquidation estate officially closes. However, the Board recognizes that this approach may be problematic, especially if the liquidation estate remains open for several years, because it could result in the liquidation estate receiving an NCUSIF equity distribution while also imposing costs on the NCUSIF. As a result, the Board is also considering treating the termination date as the date the FICU enters liquidation. Accordingly, the Board requests comment on the appropriate treatment of liquidation estates under proposed § 741.4(j)(1)(ii).

*Section 741.13 NCUSIF Equity Distributions Related to the Corporate System Resolution Program*

The Board proposes to adopt a temporary provision to govern any NCUSIF equity distributions resulting from the Corporate System Resolution Program. For purposes of this temporary provision, any NCUSIF equity distributions declared for calendar years 2017 through 2021 are deemed to be ''resulting from the Corporate System Resolution Program.'' The Board created the Corporate System Resolution Program to respond to increased administrative costs resulting from the

[28] *Id.* at 741.4(j)(1)(ii).

[29] The calculation methodology set out in § 741.4(j)(1)(ii) specifically requires the Board to multiply the amount of insured shares outstanding by the ''modified premium/distribution ratio.'' The ''modified premium/distribution ratio'' is the amount of full months in the calendar year preceding the termination of federal share insurance coverage divided by 12. *See* 12 CFR 741.4(b).

[30] 74 FR 36618 (July 24, 2009) (proposed rule).

[31] *Id.*

[32] *See* 12 CFR 741.4(j)(1)(iii) (a FICU that terminates federal share insurance coverage is only required to pay a federal share insurance premium if it is assessed on or before the date of the termination of coverage).

[33] *See e.g. Limbaugh* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.,* 732 F.2d 859, 861 (11th Cir. 1984) (''[w]hen stock is sold prior to the ex-dividend date, the right to a dividend goes with the stock to the purchaser, rather than staying with the seller.'').

conservatorship and liquidation of corporate credit unions following the Great Recession. As part of the Corporate System Resolution Program, the Board repackaged portfolios of asset-backed securities and corporate bonds (legacy assets) into NCUA Guaranteed Notes (NGNs) and funded the securitization of these assets through corporate assessments and borrowing against a line of credit at the U.S. Treasury.

Improved performance of legacy assets and NCUA's legal recoveries in its capacity as liquidating agent for the corporate credit unions has resulted in the TCCUSF maintaining a net position of positive $1.6 billion as of March 2017. It is now possible for remaining NGNs to be funded solely from the NCUSIF without inordinate risk, meaning that the purposes of the TCCUSF and the Corporate System Resolution Program have been fulfilled. Accordingly, the Board is considering closing the TCCUSF and winding down the Corporate System Resolution Program and will be publishing a notice in the **Federal Register** soliciting comment in that regard.

Closing the TCCUSF and winding down the Corporate System Resolution Program will require NCUA to transfer all remaining funds, property, or other assets remaining in the TCCUSF to the NCUSIF, which could trigger a significant NCUSIF equity distribution.[34] Winding down of the Corporate System Resolution Program could also trigger future NCUSIF equity distributions as the NGNs mature. Given the potential size and complexity of these transactions, the Board believes that § 741.4 is ill-suited to address these potential NCUSIF equity distributions. As a result, the Board proposes to adopt a temporary provision to NCUA's share insurance requirements rule to govern an NCUSIF equity distribution resulting from the Corporate System Resolution Program.

The Board believes that any NCUSIF equity distribution related to the Corporate System Resolution Program should first go towards repaying those FICUs that paid special premiums, generally referred to as corporate assessments, rather than taking the form of a general proportionate distribution to current FICUs under § 741.4. Accordingly, the Board is considering making any NCUSIF equity distributions related to the Corporate System Resolution Program in the form of a series of NCUSIF equity distributions repaying any corporate assessments against FICUs on either a first-in, first-out (FIFO) or a last-in, first-out (LIFO) basis.

Any payments paid to a FICU that has merged into another FICU would be paid to the continuing FICU. Moreover, any payments owed to a liquidated FICU with an open liquidation estate or a closed liquidation estate still within its applicable look-back period would be made to the liquidation estate and distributed ratably to the FICU's creditors in accordance with part 709 of NCUA's rules. Given the payment priority set out in part 709, the Board anticipates that a majority of these creditors would be members with uninsured share balances rather than general creditors of the liquidation estate. Because any NCUSIF equity distribution related to the Corporate System Resolution Program would go first towards repaying FICUs that paid corporate assessments, a FICU that has not paid a corporate assessment would not be entitled to receive an NCUSIF equity distribution related to the Corporate System Resolution Program unless all such corporate assessments are first repaid in full. Additionally, a FICU that terminates federal share insurance coverage before the payment date for an NCUSIF equity distribution related to the Corporate System Resolution Program would not be entitled to a distribution for the reasons stated above in the discussion of proposed changes to § 741.4(j)(1)(ii).

NCUSIF Equity Distribution on First-In, First-Out Basis

Under a FIFO approach, the Board would make an NCUSIF equity distribution to each FICU up to the total dollar amount of corporate assessments paid by that FICU during the relevant assessment period beginning with the first assessment period in 2009. For example, assume the Board has declared four corporate assessments in the amounts of $100 million in 2009, $250 million in 2010, $550 million in 2011, and $700 million in 2012. Also assume that XYZ Credit Union, a fictitious FICU, has paid corporate assessments of $1 million, $2.5 million, $5.5 million, and $7 million, respectively. Furthermore, assume that on June 30, 2018, the Board closes the TCCUSF and declares an NCUSIF equity distribution of $500 million. Under the proposed FIFO method, XYZ Credit Union would receive $3.5 million ($1 million for 2009 plus $2.5 million for 2010 equals $3.5 million) representing the total dollar amount of corporate assessments paid by XYZ Credit Union for calendar years 2009 and 2010.

Because there are not enough funds to fully repay the $550 million corporate assessment for 2011, XYZ Credit Union receives a distribution of remaining funds based on its pro rata share of the corporate assessment ($5.5 million divided by $550 million equals .01 or 1 percent). In this case, only $150 million remains after repaying the first and second corporate assessments (Subtracting $100 million and $250 million from $500 million equals $150 million, which is less than $550 million). As a result, XYZ Credit Union receives a distribution for that period of $1.5 million ($150 million multiplied by .01 equals $1.5 million). As a result, XYZ Credit Union receives a total NCUSIF equity distribution of $5 million ($3.5 million plus $1.5 million equals $5 million) from the $500 million distribution declared on June 30, 2018.

NCUSIF Equity Distribution on Last-In, First-Out Basis

Under a LIFO approach, the Board would make an NCUSIF equity distribution to each FICU up to the total dollar amount of premiums paid by that FICU during the relevant assessment period beginning with the last assessment period. For example, assume the Board has declared four corporate assessments in the amounts of $100 million in 2009, $250 million in 2010, $550 million in 2011, and $700 million in 2012. Also assume that XYZ Credit Union, a fictitious FICU, has paid corporate assessments of $1 million, $2.5 million, $5.5 million, and $7 million, respectively. Furthermore, assume that on June 30, 2018, the Board closes the TCCUSF and declares a NCUSIF equity distribution of $500 million. Because there are not enough funds to fully repay the $700 million corporate assessment for 2012, XYZ Credit Union receives a distribution based on its pro rata share of the corporate assessment ($7 million divided by $700 million equals .01 or 1 percent). As a result, under the proposed LIFO method, XYZ Credit Union would receive $5 million ($500 million multiplied by .01 equals $5 million).

Of the two methods, the Board favors the LIFO method because it ensures that FICUs receive NCUSIF equity distributions for their most recent corporate assessments first, with smaller assessments that took place at the start of the Corporate System Resolution Program being repaid over time as the NGNs mature. Therefore, the Board is proposing corresponding regulatory text for § 741.13 reflecting the LIFO approach in this notice of proposed rulemaking. However, the Board is

[34] 12 U.S.C. 1790e(h). NCUA does not have the legal authority to make distributions directly from the TCCUSF.

requesting comment on both methods, as well as whether the four quarter average of insured shares method or the year-end insured share balance method discussed above should apply to NCUSIF equity distributions relating to the Corporate System Resolution Program.

Additionally, the Board requests comment on whether the FCU Act permits the FIFO and LIFO methods. The FCU Act requires the Board to ''effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of the calendar year,'' the NCUSIF's equity ratio exceeds its normal operating level and the available assets ratio exceeds 1 percent.[35] The Board believes that the statutory text is sufficiently ambiguous to permit the Board to adopt either a FIFO or LIFO method for determining the payment priority of each series of NCUSIF equity distributions provided that each FICU receives a pro rata distribution based on the amount of funds available for the relevant assessment period. However, the Board recognizes that this is not the only interpretation of this provision and requests comment in that regard.

Furthermore, the Board requests comment on whether a FICU's liquidation estate should receive an NCUSIF equity distribution related to the Corporate System Resolution Program. The Board's preferred approach is to make NCUSIF equity distributions to liquidation estates that remain open or were recently closed and are still within the relevant look-back period where it is possible to reopen the estate and make additional distributions to creditors. As noted above in the discussion of § 741.4(j)(1)(ii), however, the treatment of liquidation estates can be problematic, especially for liquidation estates that remain open for several years. Accordingly, the Board requests comment on the appropriate treatment of liquidation estates under proposed § 741.13.

## III. Technical and Conforming Amendments

*Section 741.4(b) Definitions*

The Board proposes to make a technical correction to the definition of the ''available assets ratio.'' Section 741.4(b) defines the ''available assets ratio'' as the ratio of the total of cash plus market value of unencumbered investments less direct liabilities and contingent liabilities for which no provision for loss has been made (numerator) to the aggregate amount of insured shares in all FICUs (denominator).[36] The mathematical formula immediately following this definition, however, compares the numerator to the ''aggregate amount of all insured shares from the final reporting period of the calendar year.'' [37] This discrepancy is a prior inadvertent drafting error that the Board proposes to fix by amending the qualifier to read ''as reported on the calendar year-end Call Report'' in both the definition and the mathematical formula.

This proposed change is purely technical in nature and does not change the legal effect of § 741.4. The available assets ratio is used to determine whether the Board is required to make an NCUSIF equity distribution for a given calendar year.[38] When making that determination, the FCU Act requires NCUA to calculate the aggregate amount of insured shares in all FICUs using information from December 31 Call Reports.[39] This requirement is also codified in § 741.4(e) which generally addresses an NCUSIF equity distribution.[40] Accordingly, both the written definition in § 741.4(b) and the mathematical formula are correct. However, the Board recognizes that, if uncorrected, the discrepancy in language could cause some confusion. Therefore, amending the definition of ''available assets ratio'' is appropriate to provide FICUs with greater clarity.

*Section 741.4(i) Conversion to Federal Insurance*

The Board proposes to make conforming amendments to §§ 741.4(i)(1)(v) and 741.4(i)(2)(iii) depending on the method chosen for calculating a FICU's proportionate share of an NCUSIF equity distribution. Section 741.4(i)(1)(v) addresses an NCUSIF equity distribution to a financial institution that converts to federal share insurance coverage during the calendar year.[41] If there is an NCUSIF equity distribution applicable to the calendar year in which a financial institution converts to federal share insurance, the newly insured credit union is entitled to receive an NCUSIF equity distribution based on the amount of insured shares as of the end of the calendar year multiplied by the financial institution's premium/distribution ratio. The premium/distribution ratio is calculated by dividing the number of full remaining months in the calendar year following the date of the financial institution's conversion to federal share insurance by 12.[42]

Section 741.4(i)(2)(iii) addresses an NCUSIF equity distribution to a FICU that merges with a financial institution that is not federally insured by NCUA where the FICU is the surviving entity.[43] If the Board declares a NCUSIF equity distribution for the calendar year in which such a merger takes place, the continuing FICU is entitled to receive an NCUSIF equity distribution based on its insured shares as of the end of the year of the merger. Depending on the method chosen to calculate a FICU's proportionate share of an NCUSIF equity distribution, the Board will make one of the following conforming amendments to §§ 741.4(i)(1)(v) and 741.4(i)(2)(iii).

Four Quarter Average of Insured Shares

If the Board choses to calculate a FICU's proportionate share of an NCUSIF equity distribution based on a FICU's average insured shares, the Board would amend §§ 741.4(i)(1)(v) and 741.4(i)(2)(iii) by removing the calculation methods set out in those paragraphs and replacing them with cross-references to amended § 741.4(e). Amended § 741.4(e) would include a provision stating that a financial institution converting to federal share insurance during the calendar year applicable to an NCUSIF equity distribution would be treated as not having any insured shares for the quarterly periods that it is not federally insured by NCUA. The Board would apply the same approach to mergers where the merging institution is not federally insured by NCUA. While this method is different from NCUA's current practice, the difference is mathematically insignificant and promotes greater uniformity throughout § 741.4 by harmonizing the calculation methods under §§ 741.4(e) and 741.4(i).

Year-end Insured Share Balance

If the Board chooses to calculate a FICU's proportionate share of an NCUSIF equity distribution based on a FICU's year-end insured shares, the Board would not amend §§ 741.4(i)(1)(v) or 741.4(i)(2)(iii) because the rule presently calculates a converting financial institution's proportionate share of an NCUSIF equity distribution using year end insured shares reported in the December 31 Call Report times

[35] 12 U.S.C. 1782(c)(3)(A).

[36] 12 CFR 741.4(b).

[37] *Id.*

[38] 12 U.S.C. 1782(c)(3)(A)(iii).

[39] 12 U.S.C. 1782(c)(3)(C).

[40] 12 CFR 741.4(e).

[41] 12 CFR 741.4(i)(1)(v).

[42] *Id.* at 741.4(b).

[43] 12 CFR 741.4(i)(2)(iii).

the institution's premium/distribution ratio, which adjusts the FICU's share of the distribution for the proportion of the year it was federally insured by NCUA.

*Appendix A to Part 741 Examples of Partial-Year NCUSIF Assessment and Distribution Calculations under § 741.4*

The Board also proposes to remove Appendix A to part 741 and replace it with examples and frequently asked questions published on NCUA's public Web site.[44] Appendix A provides examples of partial-year NCUSIF assessment and distribution calculations under various different factual scenarios. While the Board recognizes that examples of how NCUA makes these calculations may be useful to FICUs, including those examples in an appendix to part 741 makes it difficult for NCUA to update, amend, or revise the examples to provide FICUs with additional clarity. Accordingly, the Board believes that removing Appendix A and replacing it with information on the Web site is appropriate to provide FICUs with more clear, relevant, and timely examples regarding the calculation of partial-year NCUSIF assessments and distributions.

**IV. Regulatory Procedures**

*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $100 million in assets).[45] This rule clarifies existing requirements and will not impose any new regulatory requirements. Consequently, the rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, a regulatory flexibility analysis is not required.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new information collection requirement or amends an existing information collection requirement.[46] For the purposes of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or third-party disclosure requirement. The proposed rule does not contain a new information collection requirement or amend an existing information collection requirement that requires approval by OMB under the Paperwork Reduction Act (44 U.S.C. Chap. 35).

*Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999.[47]

*Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests.[48] NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has therefore determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

**List of Subjects**

*12 CFR Part 741*

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 20, 2017.

**Gerard Poliquin,**

*Secretary of the Board.*

For the reasons discussed above, the Board proposes to amend 12 CFR part 741 as follows:

## PART 741—REQUIREMENTS FOR INSURANCE

■ 1. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 2. Amend § 741.4 by:
■ a. In paragraph (b) revising the definition of ''Available assets ration;''
■ b. Revising paragraph (e);
■ c. Revising paragraphs (i)(1)(v) and (i)(2)(iii) and (j)(1)(ii).

The revisions to read as follows:

**§ 741.4 Insurance premium and one percent deposit.**

* * * * *

(b) * * *

*Available assets ratio* means the ratio of:

(i) The amount determined by subtracting all liabilities of the NCUSIF, including contingent liabilities for which no provision for losses have been made, from the sum of cash and the market value of unencumbered investments authorized under section 203 of the Federal Credit Union Act (12 U.S.C. 1783(c)), to:

(ii) The aggregate amount of the insured shares in all insured credit unions as reported on the calendar year-end Call Report.

(iii) Shown as an abbreviated mathematical formula, the available assets ratio is:

$$\frac{\text{(cash + market value of unencumbered investments) - (liabilities + contingent liabilities for which no provision for loss has been made)}}{\text{aggregate amount of the insured shares in all insured credit unions as reported on the calendar year-end Call Report.}}$$

* * * * *

(e) *NCUSIF equity distribution.* If, at the end of the calendar year, the NCUSIF's equity ratio exceeds its normal operating level and its available

[44] 12 CFR 741, App. A.

[45] 5 U.S.C. 603(a).

[46] 44 U.S.C. 3507(d); 5 CFR 1320.

[47] Public Law 105–277, 654, 112 Stat. 2681, 2681–581 (1998).

[48] 64 FR 43255 (Aug. 4, 1999).

assets ratio exceeds 1 percent, the NCUA Board will make a proportionate NCUSIF equity distribution to federally insured credit unions. Newly chartered federally insured credit unions and credit unions that convert from or terminate federal share insurance during the calendar year for which the NCUSIF equity distribution is declared shall not be eligible for that distribution.

(1) *Amount of NCUSIF equity distribution.* A NCUSIF equity distribution shall be the maximum amount possible that does not reduce the NCUSIF's equity ratio below its normal operating level or the available assets ratio below 1 percent.

(2) *Form of NCUSIF equity distribution.* A NCUSIF equity distribution shall be in a form determined by the NCUA Board including a waiver of insurance premiums, a rebate of insurance premiums, dividends, or any combination thereof.

(3) *Timing of NCUSIF equity distribution.* A NCUSIF equity distribution shall occur within a reasonable time after the close of the calendar year for which the NCUSIF equity distribution is declared but no later than June 30th.

(4) *Calculation of ratios and proportionate NCUSIF equity distribution.* For purposes of this paragraph, the NCUA Board shall determine the equity ratio, available assets ratio, and a federally insured credit union's proportionate NCUSIF equity distribution as follows:

(i) *Equity ratio and available assets ratio.* When calculating the equity ratio and available assets ratio, the aggregate amount of insured shares in all federally insured credit unions shall be determined based on the insured shares reported on the calendar year-end Call Report for which the NCUSIF equity distribution is declared.

(ii) *Proportionate NCUSIF equity distribution.* A federally insured credit union's proportionate NCUSIF equity distribution shall be determined by dividing the dollar amount of the declared NCUSIF equity distribution by the aggregate average amount of insured shares in all federally insured credit unions eligible to receive the distribution and then multiplying by a federally insured credit union's average amount of insured shares over the calendar year for which the NCUSIF equity distribution is declared.

(A) *Average amount of insured shares.* An eligible federally insured credit union's average amount of insured shares over a given calendar year shall be determined by dividing the sum of the insured shares reported in each of its quarterly Call Reports (including the separate Call Reports of any credit unions that have merged into the federally insured credit union) by 4. A financial institution that converts to federal share insurance or merges into a federally insured credit union during the calendar year will be treated as not having insured shares for periods where it was not federally insured by NCUA.

(B) *Aggregate average amount of insured shares.* The aggregate average amount of insured shares over a given calendar year shall be determined by adding together the aggregate amount of insured shares in all federally insured credit unions (less any insured shares reported in any quarterly Call Report by a credit union that converts from or terminated federal share insurance during the calendar year for which the NCUSIF equity distribution is declared).

(C) *Mathematical formulas.* Shown as an abbreviated series of mathematical formulas, a federally insured credit union's proportionate NCUSIF equity distribution is calculated as follows:

$$Prop.\ Dist._i = \left(\frac{NCUSIF\ equity\ distribution}{Aggregate\ avg.\ amount\ of\ insured\ shares}\right) * Avg.\ amount\ of\ insured\ shares_i$$

$$Aggregate\ average\ amount\ of\ insured\ shares = \sum_{i=1}^{N} (Avg.\ amount\ of\ insured\ shares_i)$$

$$Avg.\ amount\ of\ insured\ shares_i = \sum_{q=1}^{4} \left(\frac{insured\ shares_{q,i}}{4}\right)$$

Where:

$i$ = the $i$th federally insured credit union in the series.

$N$ = the total number of all federally insured credit unions as of December 31 of the calendar year for which the NCUSIF equity distribution is declared.

$n$ = the $n$th federally insured credit union in the series.

$q$ = the $q$th quarterly Call Report in the series.

* * * * *

(i) *Conversion to federal insurance.*

(1) * * *

(v) If the NCUSIF declares a distribution in the year following conversion based on the NCUSIF's equity at the end of the year of conversion, receive a distribution according to paragraph (e) of this section. With regard to distributions declared in the calendar year of conversion but based on the NCUSIF's equity from the end of the preceding year, the converting institution will receive no distribution.

(2) * * *

(iii) If the NCUSIF declares a distribution in the year following the merger, receive a distribution according to paragraph (e) of this section. With regard to distributions declared in the calendar year of the merger but based on the NCUSIF's equity from the end of the preceding year, the continuing credit

union will receive a distribution based on its average insured shares as of the end of the preceding year.

(j) *Conversion from, or termination of, Federal share insurance.*

(1) * * *

(ii) Forfeit any distribution of NCUSIF equity for the calendar year in which the conversion or merger is completed; and

* * * * *

■ 3. Remove Appendix A to part 741 and redesignate Appendix B and Appendix C as Appendix A and Appendix B, respectively.

■ 4. Effective until December 31, 2022, add § 741.13 to read as follows:

**§ 741.13 NCUSIF equity distributions related to Corporate System Resolution Program.**

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) *Assessment* means a special premium assessed by the Board as part of the Corporate System Resolution Program.

(2) *Assessment period* means the relevant calendar year, or portion of a calendar year, for which the Board has charged an assessment.

(3) *Available assets ratio* has the same meaning as used in § 741.4 of this chapter.

(4) *Corporate credit union* has the same meaning as used in § 704.2 of this chapter.

(5) *Corporate System Resolution Program* refers to a special program established by the NCUA Board to stabilize the corporate credit union system.

(6) *Board* means the NCUA Board.

(7) *Federally insured credit union* means a credit union that remains federally insured under Title II of the Federal Credit Union Act as of the end of the calendar year applicable to an NCUSIF equity distribution. This includes an open liquidation estate for a liquidated credit union that would have been considered a federally insured credit union but for its liquidation. A closed liquidation estate is considered an open liquidation estate for purposes of this section if the liquidation estate is still within any applicable look back period.

(8) *National Credit Union Share Insurance Fund* or *NCUSIF* refers to a revolving fund established by Congress within the U.S. Treasury to provide federal share insurance coverage to federally insured credit union members and to offset NCUA's administrative expenses associated with the conservatorship and liquidation of federally insured credit unions.

(9) *NCUSIF equity distribution* means the payment of funds from the NCUSIF pursuant to § 202 of the Federal Credit Union Act (12 U.S.C. 1782).

(10) *NCUSIF equity ratio* has the same meaning as used in § 741.4 of this chapter.

(11) *Normal operating level* has the same meaning as used in § 741.4 of this chapter.

(b) *NCUSIF equity distributions related to Corporate System Resolution Program.* Notwithstanding § 741.4 of this chapter, the following procedures shall apply to any NCUSIF equity distribution related to the Corporate System Resolution Program declared for calendar years 2017 through 2021:

(1) *Amount of NCUSIF equity distribution.* An NCUSIF equity distribution related to the Corporate System Resolution Program shall be the maximum amount possible that does not reduce the NCUSIF equity ratio below its normal operating level or the NCUSIF's available assets ratio below 1 percent.

(2) *Timing of NCUSIF equity distribution.* An NCUSIF equity distribution related to the Corporate System Resolution Program shall occur within a reasonable time after funds become available for distribution.

(3) *Form of NCUSIF equity distribution.* An NCUSIF equity distribution related to the Corporate System Resolution Program shall take the form of a rebate of assessments. If all assessments for all assessment periods have been repaid to all federally insured credit unions, an NCUSIF equity distribution may take any form as prescribed in § 741.4 of this chapter.

(4) *Payment of NCUSIF equity distribution.* Beginning with the last assessment period, an NCUSIF equity distribution related to the Corporate System Resolution Program shall be paid to all federally insured credit unions up to the total dollar amount paid by that federally insured credit union for that assessment period subject to the following:

(i) *Insufficient funds.* If the total dollar amount of an NCUSIF equity distribution related to the Corporate System Resolution Program is insufficient to repay all federally insured credit unions the total dollar amount paid by that federally insured credit union for that assessment period, each federally insured credit union shall receive a proportionate share of the NCUSIF equity distribution based on the percentage of the total assessment for the assessment period attributable to that federally insured credit union. Any subsequent NCUSIF equity distribution shall be calculated in the same manner until all assessments for the relevant assessment period have been repaid.

(ii) *Excess funds.* If the total dollar amount of an NCUSIF equity distribution related to the Corporate System Resolution Program exceeds the total dollar amount necessary to repay all assessments for all remaining assessment periods, each federally insured credit union shall receive a proportionate share of the NCUSIF equity distribution, after all remaining assessments have been paid, according to § 741.4 of this chapter.

(c) *Effective date.* This provision shall expire and no longer be applicable after December 31, 2022.

[FR Doc. 2017–15687 Filed 7–31–17; 8:45 am]

BILLING CODE 7535–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**Docket No. FAA–2017–0646; Airspace Docket No. 17–AGL–17**

## Proposed Establishment of Class E Airspace; Ellendale, ND

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E airspace at Ellendale, ND. Controlled airspace is necessary to accommodate new special Instrument Approach Procedures developed at Ellendale Municipal Airport, for the safety and management of instrument flight rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 15, 2017.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–0646; Airspace Docket No. 17–AGL–17, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11A, 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:** Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222–5857.

**SUPPLEMENTARY INFORMATION:**

## Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending up to and including 700 feet above the surface at Ellendale Municipal Airport, Ellendale, ND, to support special instrument approach procedures for IFR operations at the airport.

## Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0646/Airspace Docket No. 17–AGL–17.'' The postcard will be date/time stamped and returned to the commenter.

## Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ''**ADDRESSES**'' section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX, 76177.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

## Availability and Summary of Documents Proposed 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 proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Ellendale Municipal Airport, Ellendale, ND, to accommodate new special instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

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 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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and 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.*

* * * * *

**AGL ND E5 Ellendale, ND [New]**

Ellendale Municipal Airport, ND
(Lat. 46°00′59″ N., long. 098°30′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Ellendale Municipal Airport.

Issued in Fort Worth, TX on July 20, 2017.

**Walter Tweedy,**

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

[FR Doc. 2017–16089 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2017–0620; Airspace Docket No. 17–ASW–10]**

## Proposed Establishment Class E Airspace; Cisco, TX

**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 Gregory M. Simmons Memorial Airport, Cisco, TX, to accommodate a new public instrument approach procedure at the airport and for safety and management of instrument flight rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 15, 2017.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2017–0620; Airspace Docket No. 17–ASW–10, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

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

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0620/Airspace Docket No. 17–ASW–10.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

### Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, 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 proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Gregory M. Simmons Memorial Airport, Cisco, TX, due to the establishment of a new public instrument approach procedure at the airport. Controlled airspace is necessary for the safety and management of instrument approach procedures for IFR operations at the airport.

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

**Regulatory Notices and Analyses**

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

**Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and 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.*

* * * * *

**ASW TX E5 Cisco, TX [New]**

Gregory M. Simmons Airport, TX
(Lat. 32°21′57″ N., long. 99°01′25″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Gregory M. Simmons Airport.

Issued in Fort Worth, Texas, on July 24, 2017.

**Walter Tweedy,**

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

[FR Doc. 2017–16090 Filed 7–31–17; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 100

**[Docket Number USCG–2017–0577]**

**RIN 1625–AA00**

## Safety Zone, Blue Angels Air Show; St. Johns River, Jacksonville, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone on the waters of the St. Johns River in vicinity of Naval Air Station (NAS) Jacksonville, Florida during the Blue Angels Air Show. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port (COTP) Jacksonville or a designated representative. The Coast Guard invites your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before August 31, 2017.

**ADDRESSES:** You may submit comments identified by docket number USCG–2017–0577 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Lieutenant Allan Storm, Sector Jacksonville, Chief, Waterways Management, U.S. Coast guard; telephone (904) 714–7616, email *Allan.H.Storm@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background, Purpose, and Legal Basis

On April 25, 2017, NAS Jacksonville submitted a marine event application to the Coast Guard for the Blue Angels Air Show that will take place from November 3, 2017 through November 5, 2017. The air show will consist of various flight demonstrations over the St. Johns River in vicinity of NAS Jacksonville. Over the years, there have been unfortunate instances of aircraft mishaps that involve crashing during performances at various air shows around the world. Occasionally, these incidents result in a wide area of scattered debris in the water that can damage property or cause significant injury or death to the public observing the air shows. The Captain of the Port (COTP) Jacksonville has determined that a safety zone is necessary to protect the general public from hazards associated with aerial flight demonstrations.

The purpose of the rulemaking is to ensure the safety of vessels and persons during the air show on the navigable waters of the St. Johns River in vicinity of NAS Jacksonville, Florida. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

### III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 8:00 a.m. to 5:00 p.m. from November 3, 2017 through November 5, 2017. The safety zone will encompass all waters within an area approximately three quarters of a mile parallel to the shoreline, and one mile out into the St. Johns River in Jacksonville, FL. The duration of the

zone is intended to ensure the safety of the public and these navigable waters during the aerial flight demonstrations. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

## IV. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the St. Johns River for nine hours on each of the three days the air show is occurring. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

### *B. Impact on Small Entities*

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that would prohibit persons and vessels from transiting through a one square mile regulated area during a three day air show lasting nine hours daily. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### *G. Protest Activities*

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

## V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the

outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165. T07–0577 to read as follows:

### § 165.T07–0577 Safety Zone, Blue Angels Air Show; St. Johns River, Jacksonville, FL

(a) *Regulated Area.* The following area is a safety zone located on the St. Johns River in Jacksonville, FL. All waters of the St. Johns River encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 30°13′41″ N.; 081°39′45″ W., thence due east to Point 2 in position 30°13″41″ N.; 081°38′35″ W., thence south to Point 3 in position 30°14′27″ N.; 081°38″35″ W., thence west to Point 4 in position 30°14′27″ N., 081°39′45″ W., thence following the shoreline north back to the point of origin. These coordinates are based on North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at (904) 714–7557, or a designated representative via VHF–FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Jacksonville or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF–FM channel 16 or by on-scene designated representatives.

(d) *Enforcement Period.* This rule will be enforced daily from 8 a.m. until 5 p.m. from November 3, 2017 through November 5, 2017.

Dated: July 27, 2017.

**T.C. Wiemers,**

*Captain, U.S. Coast Guard, Captain of the Port Jacksonville.*

[FR Doc. 2017–16177 Filed 7–31–17; 8:45 am]

BILLING CODE 9110–04–P

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## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR Part 4

**RIN 2900–AP88**

## Schedule for Rating Disabilities; Musculoskeletal System and Muscle Injuries

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to revise the regulations that involve the Musculoskeletal System within the VA Schedule for Rating Disabilities (''VASRD'' or ''Rating Schedule''). VA proposes to rename certain diagnostic codes, revise rating criteria, give new rating guidance, add new codes, and remove obsolete codes. These revisions would incorporate medical terminology more recent than the last comprehensive review, as well as simplify the rating process.

**DATES:** Comments must be received by VA on or before October 2, 2017.

**ADDRESSES:** Written comments may be submitted through *www.Regulations.gov*; by mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to ''RIN 2900–AP88—Schedule for Rating Disabilities; Musculoskeletal System and Muscle Injuries.'' Copies of 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 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Gary Reynolds, M.D., Regulations Staff (211C), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The National Defense Authorization Act of 2004, secs. 1501–07, Public Law 108–136, 117 Stat. 1392, established the Veterans' Disability Benefits Commission (the ''Commission''). Section 1502 of Public Law 108–136 mandated the Commission to study ways to improve the disability compensation system for military veterans. The Commission consulted with the Institute of Medicine (IOM) to review the medical aspects of current compensation policies. In 2007, the IOM released its report titled ''A 21st Century System for Evaluating Veterans for Disability Benefits.'' (Michael McGeary et al. eds.2007).

The IOM report was notable in several respects. The IOM observed that, in part, the Rating Schedule was inadequate in areas because it contained obsolete information and did not

sufficiently integrate current and accepted diagnostic procedures. In addition, the IOM observed that the current body system organization of the Rating Schedule does not reflect current knowledge of the relationships between conditions and comorbidities.

Following the release of the IOM report, VA created a musculoskeletal system workgroup. The goals adopted by the workgroup were to: (1) Improve and update the process that VA uses to assign levels of disability after it grants service connection; (2) improve the fairness in adjudicating disability benefits for service-connected veterans; and (3) invite public participation. The workgroup was co-chaired by the Veterans Health Administration and Veterans Benefits Administration. The workgroup was comprised of subject matter experts from VA, the Department of Defense, and medical academia. The workgroup held a public forum in Washington, DC, during August 2010, where it discussed current regulations and possible revisions. The workgroup held a second public forum in Washington, DC, during June 2012, where it shared a draft proposal for comment.

The workgroup met periodically during and after the public forums to continue its revision efforts. The regulation-drafting phase, which began in April 2012, continues through the publication of this proposed rule. With this rulemaking, VA proposes to remove obsolete diagnostic codes, modernize the names of selected diagnostic codes, revise descriptions and criteria, and add new diagnostic codes.

**The Focus of This Revision**

Consistent with the IOM's recommendations, the proposed amendments rename conditions to reflect current medicine, remove obsolete conditions, clarify ambiguities in existing rating criteria, and add conditions that previously did not have diagnostic codes. However, VA experienced greater difficulty revising existing rating criteria in many areas. After significant time and research, since an earnings loss study had not been conducted in time to be considered during the workgroup and rule-drafting phases, VA concluded there was only a narrow set of circumstances where the medical literature clearly supported the proposed changes in the absence of earnings loss information.

As such, VA modified the approach recommended by the IOM for this body system. Only peer-reviewed articles where at least one measureable proxy for reduced earnings capacity was studied were deemed acceptable to justify a reduction in the level or duration of ratings for specific conditions (*e.g.,* time to return to work, activity limitations related to work, and/or participation restriction(s) from work-related tasks). Therefore, at this time, VA proposes changes to only two codes (diagnostic codes 5054 and 5055) where the criteria changes would result in such a reduction.

**I. Proposed Changes to § 4.71a**

*A. Nomenclature Changes to Existing Diagnostic Codes: 5003, 5012–15, 5023, 5024 and 5242*

In its review of the musculoskeletal body system, VA identified a number of diagnostic codes (DCs) with terms that are outdated or unclear. As such, it proposes to retitle these DCs to reflect current medical practice and nomenclature. There are no proposed substantive changes to the rating criteria for these eight DCs.

VA proposes to retitle DC 5003, currently ''Arthritis, degenerative (hypertrophic or osteoarthritis)'' as ''Degenerative arthritis, other than post-traumatic.'' No other language or criteria changes are proposed for this diagnostic code.

Current DCs 5012 and 5015 refer to ''Bones, new growths of, malignant'' and ''Bones, new growths of, benign,'' respectively. VA proposes to replace the term ''new growths of'' in these DCs with the current medical term, ''neoplasm.'' See S. Terry Canale and James H. Beaty, Campbell's Operative Orthopedics 859–86 (benign) and 909–45 (malignant) (12th ed. 2013). DC 5012 would be titled ''Bones, neoplasm, malignant, primary or secondary'' to indicate that both primary and secondary neoplasms are rated under this DC to ensure consistent and accurate evaluation. Non-substantive revisions to the language in the note under DC 5012 are also proposed; specifically, VA proposes to add the term ''prescribed'' to the phrase ''therapeutic procedure'' to ensure that readers understand VA will only consider medically-directed therapy when rating DC 5012.

VA proposes to rename DC 5013, which refers to ''Osteoporosis, with joint manifestations,'' as ''Osteoporosis, residuals of.'' VA proposes a similar revision to current DC 5014 by renaming ''Osteomalacia'' as ''Osteomalacia, residuals of.'' Both osteoporosis and osteomalacia, in and of themselves, do not have any disabling characteristics. See Kelley's Textbook of Rheumatology 1730–1750 (Gary S. Firestein and Ralph C. Budd et al. eds.,10th ed. 2017). Rather, it is the residuals of these conditions that VA evaluates. Thus, adding the reference ''residuals of'' provides more accurate instruction and information to rating personnel.

Current DC 5023 refers to ''Myositis ossificans.'' VA proposes to update this DC to reflect the latest medical terminology and rename DC 5023 as ''Heterotopic ossification.'' See Essentials of Physical Medicine and Rehabilitation: Musculoskeletal Disorders, Pain and Rehabilitation, 691–95 (Walter R. Frontera and Julie K. Silver et al. eds., 2d ed. 2008). Additionally, VA proposes to revise DC 5024, currently named, ''Tenosynovitis,'' to ''Tenosynovitis, tendinitis, tendinosis, or tendinopathy.'' These newly-added conditions are commonly seen in the veteran population and represent similar forms of disability. See Kelley's Textbook of Rheumatology, supra at 587–604. This update would assist rating personnel in more quickly identifying the appropriate DC. Non-substantive revisions to the criteria of DC 5024 are also proposed.

Finally, VA proposes to retitle DC 5242, ''Degenerative arthritis of the spine'' as ''Degenerative arthritis, degenerative disc disease other than intervertebral disc syndrome.'' This change gives rating personnel clear guidance whenever they encounter a diagnostic imaging report that references degenerative disc disease without mention of intervertebral disc syndrome (also known as disc herniation). A non-substantive revision to the citation accompanying DC 5242 is also proposed.

*B. Substantive Revisions to Existing Diagnostic Codes: 5002, 5009–5011, 5051–5056, 5120, 5160, 5170, 5201, 5202, 5255, 5257, 5262, and 5271*

In addition to modernizing the names of certain DCs, VA also proposes substantive (*i.e.,* not related to nomenclature) revisions to a number of existing DCs, to include some instances of changes in the evaluation criteria.

1. Diagnostic Code 5002

The first substantive revision proposed for § 4.71a involves DC 5002, ''Arthritis rheumatoid (atrophic) *As an active process.*'' VA proposes to retitle this code as ''Multi-joint arthritis (except post-traumatic and gout), 2 or more joints, as an active process.'' VA proposes this change to include a greater number of systemic arthritis processes that cause multisystem effects besides rheumatoid arthritis. The title would employ the phrase ''multi-joint'' rather than ''polyarthritis'' because polyarthritis requires 4 or more joints to

be involved. VA would provide, in Note (1), a non-exhaustive list of conditions rated under this code (rheumatoid arthritis, psoriatic arthritis, spondyloarthropathies, etc.). See Kelley's Textbook of Rheumatology, supra at 615–616. VA would also remove the language currently in DC 5002 regarding chronic residuals and, in Note (2), provide a directive to rate chronic residuals under DC 5003. VA proposes this change because the current language used for chronic residuals in DC 5002 is very similar to DC 5003 and its removal would simplify the schedule. Finally, VA would redesignate the code's current note as Note (3) and add a prohibition that prevents combining ratings from active process with DC 5003, instead directing rating personnel to assign the higher evaluation.

2. Diagnostic Code 5009

VA proposes that diagnostic code 5009, currently titled ''Arthritis, other types (specify),'' be retitled as ''Other specified forms of arthropathy (excluding gout).'' VA proposes this change to capture other disease processes that cause joint injury, but are not necessarily captured within the rating schedule. The current language accompanying DC 5009, concerning how to rate diagnostic codes 5004–5009, would be redesignated as Note (2) and would be revised to give guidance on how to rate both acute phase and chronic residuals. A new Note (1) would provide a non-exhaustive list of conditions that should be rated under this diagnostic code. No other changes are proposed for this code.

3. Diagnostic Code 5010

Diagnostic code 5010 currently states: ''Arthritis, due to trauma, substantiated by X-ray findings: Rate as arthritis, degenerative.'' VA proposes to change the title and criteria to ''Post-traumatic arthritis: Rate as limitation of motion, dislocation, or other specified instability under the affected joint. If there are 2 or more joints affected, each rating shall be combined in accordance with § 4.25.'' VA proposes the title change to distinguish between joint conditions arising from traumatic causes and joint conditions resulting from systemic processes. This distinction is important, as the natural history (and ultimately the severity of disability) differs between joint conditions stemming from trauma as opposed to joint conditions related to systemic processes.

VA proposes the change in criteria to provide a more accurate approach to rating joint injuries resulting from trauma. The trauma process is a different event for each affected joint, as opposed to a condition such as rheumatoid arthritis, where the same systemic process can affect more than one joint in the same manner. VA also proposes the directive to combine ratings for separate joints affected by traumatic injury in accordance with § 4.25 so there will be no misunderstanding for rating personnel when encountering this situation. It is important to note that, as a result of these changes, DC 5010 would no longer rate joints affected by trauma-related arthritis under the criteria of DC 5003.

4. Diagnostic Code 5011

The next proposed substantive revision to § 4.71a is DC 5011, currently named ''Bones, caisson disease of.'' VA proposes to first revise the title of this DC to ''Decompression illness'' to ensure use of the most modern terminology. See Richard D. Vann et al., ''Decompression Illness,'' 377 Lancet 153–64 (2010). VA also proposes to revise the rating criteria for DC 5011, which currently direct rating personnel to ''Rate as arthritis, cord involvement, or deafness, depending on the severity of disabling manifestations.'' The proposed changes would provide more detailed instructions on how to rate manifestations associated with decompression illness that are outside of the musculoskeletal system (*i.e.,* not arthritic). It is well established among medical experts that the most common residual manifestations from decompression illness involve the vestibule-cochlear system (*e.g.,* hearing impairment, dizziness, vertigo), respiratory system (*e.g.,* obstructive lung disease, pulmonary blebs) or neurologic system (*e.g.,* peripheral neuropathy, stroke, paralysis). As such, VA proposes to direct rating personnel to consider evaluations within the auditory system for vestibular residuals, the respiratory system for pulmonary barotrauma residuals, and the neurologic system for cerebrovascular accident residuals. Id.

5. Diagnostic Codes 5051–5056

Since the last revision to the musculoskeletal system schedule, the medical community has been employing a new treatment approach, joint resurfacing, for selected joints (particularly the hip and knee). There are important similarities between joint resurfacing and prosthetic joint replacement. Joint resurfacing takes about the same time to perform and the recovery/rehabilitation periods are similar to comparable prosthetic joint replacement. This means that the impact on earnings capacity caused by the convalescence and rehabilitation from joint resurfacing is comparable to prosthetic joint replacement. However, there are significant differences with joint resurfacing, including: (1) Joint resurfacing preserves more of the original anatomy; and, (2) in most cases, joint resurfacing restores more of the original joint function than the prosthetic joint replacement. Therefore, less residual disability typically results from joint resurfacing as compared to prosthetic joint replacement. Currently, VA does not compensate for the disability associated with joint resurfacing, despite the similar impact on earnings capacity as prosthetic joint replacement.

To rectify this disparity, VA proposes to incorporate joint resurfacing within DCs 5054 and 5055 (hip and knee replacement, respectively), since more research assessing convalescence, rehabilitation, and functional recovery concerns these two joints. The DC titles would be revised to incorporate resurfacing, and the 100 percent evaluation for prosthetic hip and knee replacement would also apply to resurfacing these two joints. However, after the 100 percent evaluation period ends, further evaluation would assess the limitation of motion DCs for the hip and knee, rather than the prosthetic joint replacement of either the hip or knee, because, as previously stated, there is less of an expectation of residual disability with joint resurfacing. A note would be added to DCs 5054 and 5055 directing rating personnel, at the conclusion of the 100 percent evaluation period, to evaluate hip joint resurfacing claims under DCs 5250–5255 and knee joint resurfacing claims under DCs 5256–5262.

VA currently evaluates total joint replacements by assigning a 100 percent evaluation for 1 year following implantation of a prosthesis. After 1 year, VA assigns a minimum evaluation, with higher evaluations for complications or residuals such as weakness, pain, and limitation of motion. The evaluations assigned under these DCs are intended to encompass all musculoskeletal residuals under § 4.71a. Separate evaluations may be assigned for residuals such as scars or neurological deficits pursuant to § 4.14.

VA proposes two modifications in this regard. First, a note prior to DCs 5051 to 5056 would clarify that separate evaluations may not be assigned under § 4.71a for the joint that was resurfaced or replaced by a prosthesis unless otherwise directed. This note is intended to clarify current practice and ensure consistent application of these DCs among rating personnel.

In addition, for DCs 5054 and 5055, VA proposes to reduce the 100 percent evaluation period from 1 year to 4 months. Current medical practice for these conditions has recovery timelines that in most cases permit return to work well short of 1 year. In a review of studies looking at factors affecting return to work, the average time for return to work was between 1.1 and 13.9 weeks for hip arthroplasty and between 8.0 and 12.0 weeks for knee arthroplasty. See Claire Tilbury et al., ''Return to work after total hip and knee arthroplasty: a systematic review,'' 53 Rheumatology 512–525 (2014).

6. Diagnostic Code 5120

VA currently evaluates amputations of the arm that involve disarticulation under DC 5120 as 90 percent disabling regardless of dominant arm involvement At the outset, VA proposes to revise the name of this DC to ''Complete amputation, upper extremity,'' as this is a more accurate description of the amputation level and site.

Second, VA proposes to create two levels of disability under DC 5120 for rating purposes. One level would be titled ''Disarticulation (involving complete removal of the humerus only)'' and would provide a 90 percent compensation level for either major or minor extremity involvement; this level would be consistent with the current compensation level under DC 5120. However, the second level, to be titled ''Forequarter amputation (involving complete removal of the humerus along with any portion of the scapula, clavicle, and/or ribs),'' would provide for 100 percent compensation for either dominant or non-dominant extremity involvement. See Canale, supra at 659–71. Although both levels represent complete amputation of the upper extremity, VA believes a higher level of compensation is warranted for forequarter amputation because it is a more extensive amputation than disarticulation and results in a more significant occupational impact.

7. Diagnostic Code 5160

For reasons similar to those discussed immediately above, VA proposes two revisions of DC 5160, which pertains to amputation of the thigh at the level of disarticulation with loss of extrinsic pelvic girdle muscles. First, VA proposes to retitle this DC to ''Complete amputation, lower extremity'' to more accurately describe the amputation level and site.

VA also proposes to create two levels of criteria for rating purposes. One would be titled ''Disarticulation (involving complete removal of the femur and intrinsic pelvic musculature only)'' and would provide a 90 percent rating that is consistent with the current rating under DC 5160. The second level, titled ''Trans-pelvic amputation (involving complete removal of the femur and intrinsic pelvic musculature along with any portion of the pelvic bones),'' would provide for a 100 percent rating. See Canale, supra at 651–58. VA believes that a higher level of compensation is warranted for trans-pelvic amputation because it is a more extensive amputation than disarticulation and results in a more significant occupational impact.

VA also proposes to insert a note under DC 5160 directing rating personnel to separately evaluate residuals involving other body systems, such as bowel or bladder impairment, under the appropriate diagnostic code.

8. Diagnostic Code 5170

Current DC 5170 refers to ''Toes, all, amputation of, without metatarsal loss.'' VA proposes to add the phrase ''or transmetatarsal, amputation of, with up to half of metatarsal loss'' to include a residual of toe amputation that causes similar disability. See Canale, supra at 622–23. No change to the current level of compensation is proposed.

9. Diagnostic Code 5201

VA currently assigns ratings for limitation of motion of the arm at the shoulder where motion is limited to 25 degrees from the side, 45 degrees (midway between the side and shoulder level), or 90 degrees (at the shoulder level).

VA proposes to clarify the terminology used in these criteria by adding ranges of motion of the shoulder. Specifically, VA proposes to assign a 40 percent rating for a major joint, or 30 percent for a minor joint, where flexion and/or abduction is limited to 25 degrees from the side. VA also proposes to assign a 30 percent rating for a major joint, or 20 percent for a minor joint, where motion is limited to ''midway between side and shoulder level,'' defined as flexion and/or abduction limited to 45 degrees or less. Finally, VA proposes to assign a 20 percent rating for a major or minor joint where motion is limited ''at shoulder level,'' defined as flexion and/or abduction limited to 90 degrees or less.

These changes are not intended to alter the rating criteria. The proposed changes simply clarify the specific ranges of motion that qualify as limitations to ensure rating personnel consistently apply these criteria.

10. Diagnostic Code 5202

Currently, VA assigns a 20 percent rating for either shoulder joint when there are infrequent episodes of dislocation of the humerus at the scapulohumeral joint, with guarding of movement only at the shoulder level. VA proposes to define ''the shoulder level'' as flexion and/or abduction at 90 degrees. This change is not intended to alter the rating criteria. The proposed change simply clarifies the specific ranges of motion that qualify as limitations to ensure rating personnel consistently apply these criteria.

11. Diagnostic Code 5255

VA currently evaluates malunion of the femur by assigning a 30 percent rating for a ''marked knee or hip disability,'' a 20 percent rating for a ''moderate knee or hip disability,'' and a 10 percent rating for a ''slight knee or hip disability.'' These criteria are subjective and the terminology is vague, resulting in inconsistent ratings.

Therefore, VA proposes removing this terminology and replacing it with an instruction to rate malunion of the femur as a knee or hip disability, whichever is predominant, under existing DCs that contain objective criteria. Specifically, this condition may be rated under DCs 5256 (Knee, ankylosis of), 5257 (Knee, other impairment of), 5260 (Leg, limitation of flexion of), 5261 (Leg, limitation of extension of), 5250 (Hip, ankylosis of), 5251 (Thigh, limitation of extension of), 5252 (Thigh, limitation of flexion of), 5253 (Thigh, impairment of), or 5254 (Hip, flail joint). This change would ensure that rating personnel consistently evaluate this disability based on objective criteria.

12. Diagnostic Code 5257

VA currently assigns ratings for recurrent subluxation or lateral instability of the knee based on whether the condition is slight (10 percent), moderate (20 percent), or severe (30 percent). These criteria are subjective and the terminology is vague, resulting in VA assigning inconsistent ratings.

When the condition involves patellar instability of the knee (due to recurrent patellar subluxation or patellar dislocation), one can determine the severity of functional impairment in large part by 1) the presence, or absence of, anatomic abnormalities (*e.g.,* direct damage to patellofemoral ligament complex, ''flake'' fractures, or abnormalities affecting the patella and/or femoral trochlea); and 2) whether conservative treatment prevents recurrent instability. See Alexis C.

Colvin and Robin V. West, ''Current Concepts Review: Patellar Instability,'' J. Bone & Joint Surgery—Am. Volume 90: 2751–62 (2008).

Instability or laxity of the knee that involves other stabilizing structures of the knee such as the collateral ligaments (medial or lateral) or the cruciate ligaments (anterior or posterior) are given a ''grade'' depending upon the amount of translation, in millimeters, of the joint (*e.g.,* a grade 1 injury of the posterior cruciate ligament (PCL) is represented by 0 to 5 millimeters (mm) of translation). T. K. Kakarlapudi et al., ''Knee instability: isolated and complex,'' 34 Br. J. Sports Med. 395–400 (2000). Resulting functional impairment depends upon the grade of the injury and whether surgical intervention is required. Id. The higher the number grade is, the more severe the injury; that is, grade 1 would represent the least severe injury, grade 2 would be a more severe injury, and grade 3 would be the most severe injury.

Therefore, VA proposes replacing the current subjective terms with the following objective criteria: a 30 percent rating would be assigned for persistent grade 3 instability despite operative intervention and for which ambulation requires both bracing and an assistive device (*e.g.,* cane(s), crutch(es), or a walker), as prescribed by a physician; or, in the case of patellar instability, persistent instability despite surgical repair (whether after the primary subluxation/dislocation event or due to recurrent instability). A 20 percent would be assigned for persistent grade 3 instability without operative intervention, but when ambulation requires both bracing and an assistive device (*e.g.,* cane(s), crutch(es), or a walker), as prescribed by a physician; or, in the case of patellar instability, recurrent instability persists due to one or more documented underlying anatomic abnormalities, without surgical repair. A 10 percent evaluation would be assigned for persistent grade 1, 2, or 3 instability which requires an ambulation assistive device or bracing, as prescribed by a physician; or, in the case of patellar instability, recurrent instability persists without documented underlying anatomic abnormalities, without surgical repair. These criteria would take into account both the grade of the injury, as well as functional impairment resulting from the injury.

VA also proposes a note defining the grading of instability. Note (1) would specify that grade 1 instability requires 0–5 mm of joint translation, while grade 2 requires translation of 6–10 mm, and grade 3 requires joint translation equal to or greater than 11 mm. These levels of instability or laxity are based upon modern medical practice. See Campbell's Operative Orthopedics, supra at 2157.

VA proposes a second note to clarify what constitutes surgical repair of patellar instability. Note (2) would specify that any operative procedure which does not involve actual anatomical structural repair would not qualify as surgical repair for the purposes of compensation. This note is specifically designed to exclude procedures that are not designed to repair instability or subluxation, such as joint aspiration, arthroscopy to remove loose bodies, and so forth.

In addition, DC 5257 currently refers to ''lateral instability.'' Under current practice, any instability or laxity of the knee is evaluated under this code. Therefore, VA proposes to remove the term ''lateral,'' so that this code also encompasses other specified forms of instability and/or laxity.

13. Diagnostic Code 5262

VA currently rates malunion of the tibia and fibula by assigning a 30 percent rating for a ''marked knee or ankle disability,'' a 20 percent rating for a ''moderate knee or ankle disability,'' and a 10 percent rating for a ''slight knee or ankle disability.'' These criteria are subjective and the terminology is vague. This results in rating personnel assigning inconsistent ratings under these criteria.

Therefore, VA proposes removing this terminology and replacing it with an instruction to rate malunion of the tibia or fibula as a knee or ankle disability, whichever is predominant, under existing DCs that contain objective criteria. Specifically, this condition may be evaluated under DCs 5256 (Knee, ankylosis of), 5257 (Knee, other impairment of), 5260 (Leg, limitation of flexion of), 5261 (Leg, limitation of extension of), 5270 (Ankle, ankylosis of), or 5271 (Ankle, limited motion of). This change would ensure that rating personnel consistently assign evaluations based on objective criteria.

Another condition commonly claimed for disability compensation is medial tibial stress syndrome (MTSS), also known as ''shin splints.'' It is a benign but painful condition that is typically diagnosed simply by history and physical examination, though imaging studies such as plain radiographs, bone scans, or magnetic resonance imaging (MRI) can be used in borderline cases, as well as to diagnose other conditions. The vast majority of cases respond to conservative therapy, such as rest, shock-absorbing insoles, and electrowave shock therapy. The rare persistent cases that do not respond to conservative treatment can be treated with surgical intervention. To that end, VA proposes to modify the criteria for DC 5262 to account for MTSS as well as associated conditions. See M. Reshef and D. Guelich, ''Medial Tibial Stress Syndrome,'' 31 Clinical Sports Med. 273–90 (2012).

14. Diagnostic Code 5271

VA currently assigns ratings for limited motion of the ankle depending upon whether the limitation is moderate (10 percent) or marked (20 percent). These criteria are subjective and the terminology is vague, resulting in inconsistent evaluations.

Therefore, VA proposes to define marked limitation of motion as less than 5 degrees dorsiflexion or less than 10 degrees plantar flexion. VA also proposes to define moderate limitation of motion as less than 15 degrees dorsiflexion or less than 30 degrees plantar flexion. As VA currently uses these standards to define marked and moderate, this change is intended as a clarification of current policy and would ensure consistent application of these criteria among rating personnel.

*C. Proposed New Diagnostic Codes*

1. Diagnostic Code 5244

The current Rating Schedule does not provide instructions for rating complete traumatic paralysis, *i.e.,* paraplegia or quadriplegia; however, this disability is not uncommon in the veteran population. As such, VA proposes the addition of DC 5244, ''Traumatic paralysis, complete.''

The proposed criteria for DC 5244 would direct personnel to rate paraplegia, or functional loss of the lower limbs and trunk, under DC 5110. DC 5110 applies to loss of use of both feet and provides for a 100 percent disability rating with entitlement to special monthly compensation. Proposed DC 5244 would also provide instructions for rating quadriplegia, or paralysis of all four limbs (*i.e.,* the entire body below the neck). Specifically, VA proposes to rate quadriplegia under both DC 5109, loss of use of both hands, and DC 5110, loss of use of both feet, and combine. In practice, a veteran with service-connected quadriplegia would be entitled to two 100 percent ratings, which combine under 38 CFR 4.25 to a total evaluation of 100 percent. The veteran would also be entitled to special monthly compensation.

2. Diagnostic Code 5285

VA currently evaluates foot injuries not specifically listed in § 4.71a under

DC 5284 as ''Foot injuries, other.'' Plantar fasciitis, a foot disability seen in the veteran population, is generally rated under this DC. However, unlike other unlisted foot injuries and conditions, which can often result in a variety of signs and symptoms with varying degrees of disability, plantar fasciitis, and its functional effects, are very well defined. See Sports Medicine and Arthroscopic Surgery of the Foot and Ankle 83–93 (Amol Saxena ed., 2013). Plantar fasciitis, also known as ''jogger's heel,'' is generally characterized by heel pain due to inflammation. Craig C. Young et al., ''Plantar fasciitis,'' Medscape Reference (Feb. 4, 2014), *http://emedicine.medscape.com/article/86143-overview* (last visited April 15, 2014). However, even at its most severe, this condition involves an otherwise structurally intact foot.

There are a variety of both surgical and non-surgical treatments that may relieve the primary symptoms of plantar fasciitis. Conservative measures are always employed first, and frequently include icing, stretching, non-steroidal anti-inflammatory drug (NSAID) therapy, strapping and taping, and/or over-the-counter orthotics. Id. at *http://emedicine.medscape.com/article/86143-treatment.* Other nonsurgical treatments may include injections, physical therapy, and custom orthotics. Id. Studies have reported a resolution incidence of up to 90 percent with nonsurgical measures. Id. In severe cases, non-surgical measures fail and surgery is required.

Individuals who respond to treatment, whether surgical or non-surgical, have generally no more than slight functional limitation due to plantar fasciitis. Further, such limitation is more associated with the treatment(s) required to check the pain (*e.g.,* limitation of physical activities (such as running), injections, icing, use of NSAIDS, surgical residuals, etc.) than with the actual disability itself. For individuals who do not respond to treatment, the resulting limitations may vary, but are generally more pronounced for those who have bilateral, rather than unilateral, plantar fasciitis.

Given the foregoing, VA proposes to create a new DC, namely DC 5285, ''Plantar fasciitis,'' to rate this condition. VA intends to evaluate this disability based on a combination of extent (one foot or both feet) and response to treatment (responsive or nonresponsive). For individuals whose plantar fasciitis does not respond to both surgical and non-surgical treatment, VA proposes to award 30 percent disability rating if both feet are affected and a 20 percent disability rating if one foot is affected. For an individual whose plantar fasciitis (either unilateral or bilateral) is responsive to treatment (either non-surgical or surgical), VA proposes a 10 percent disability rating.

Finally, consistent with other foot injuries and disabilities, VA intends to include a note with DC 5285 that would instruct rating personnel to assign a 40 percent rating in cases where there is actual loss of use of the foot. In cases where a veteran's bilateral plantar fasciitis has not improved following surgery and there is actual loss of use of one foot, this would result in a 40 percent evaluation for that foot and a 20 percent evaluation for the other foot that was not responsive to treatment, but did not result in loss of use.

*D. Removal of Existing Diagnostic Codes*

VA proposes to remove three obsolete codes from § 4.71a. The first two, DC 5018 and DC 5020, refer to ''Hydrarthrosis, intermittent'' and ''Synovitis,'' respectively. Both hydrarthrosis and synovitis are signs found on physical examination. The disability from a specific condition that causes either hydrarthrosis or synovitis (*e.g.,* rheumatoid arthritis, psoriatic arthritis, or pseudogout) is captured within current evaluation criteria for the specific disabling condition. See Kelley's Textbook of Rheumatology, supra at 588. Given that VA's disability compensation system is designed to compensate for disabilities, it is not appropriate to list either sign as its own DC.

For similar reasons, VA proposes to remove DC 5022, ''Periostitis.'' Current medical terminology refers to ''periosteal reaction'' in order to include all of the possible causes, such as bleeding, infection, or tumor. In contrast, ''periostitis'' refers to a non-specific inflammatory process due to a number of diagnoses that could potentially result in service connection. Since an evaluation should be conducted under the primary diagnosis, rather than a radiographic finding such as periostitis, VA intends to remove DC 5022. See Radiologic-Pathologic Correlations from Head to Toe: Understanding the Manifestations of Disease 668 (Nicholas C. Gourtsoyiannis and Pablo R. Ros eds., 2005).

**II. Proposed Changes to § 4.73**

Section 4.73 provides VA's schedule for rating muscle injuries. Following its review of this body system, VA proposes the addition of two DCs for conditions that previously required analogous rating.

The first proposed code, DC 5330, would apply to residuals of rhabdomyolysis, in which muscle tissue breaks down rapidly. See Janice L. Zimmerman and Michael C. Shen, ''Rhabdomyolysis,'' 144(3) CHEST 1058–65 (2013). Although VA proposes to rate this condition based on residual impairment to the affected muscle group(s), it believes that a specific DC is needed as there is no current instruction to rating personnel as to how to evaluate this condition. Furthermore, in addition to provide rating instructions to evaluate each affected muscle group, VA proposes to include a note directing rating personnel to separately evaluate any chronic renal complications that may be associated with this condition.

The second DC VA proposes to add to § 4.73 is DC 5331, ''Compartment syndrome.'' Similar to DC 5330, VA proposes to rate compartment syndrome, a condition in which there is increased pressure within the muscles, according to the affected muscle group(s). See Canale, supra at 2311–21. The addition of this DC would provide clear instructions to rating personnel; it would also eliminate the need for analogous coding for a condition seen in the veteran population.

In addition, VA proposes to add a second note at the beginning of § 4.73 directing that rating personnel consider the objective criteria contained in § 4.56 when determining whether a muscle disability is slight, moderate, moderately severe, or severe under DCs 5301 to 5323. Although § 4.56 references these DCs, the levels of severity are not defined in § 4.73, nor does that section currently reference § 4.56. Therefore, VA proposes to add this note for a cross-reference.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this proposed rule, and it has been determined not to be a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act**

Although this document contains provisions constituting a collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 2900–0747, 2900–0776, 2900–0778, and 2900–0802 through 2900–0813. While no modifications to these forms are made by this rulemaking, the total incremental cost to all respondents is estimated to be $198,002.21 during the first year. See Regulatory Impact Analysis for a full explanation.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule would be exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

**Catalog of Federal Domestic Assistance Numbers and Titles**

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.013, Veterans Prosthetic Appliances; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

**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 June 20, 2017, for publication.

Dated: July 21, 2017.

**Michael Shores,**

*Director, Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

**List of Subjects in 38 CFR Part 4**

Disability benefits, Pensions, Veterans.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 4 as follows:

## PART 4—SCHEDULE FOR RATING DISABILITIES

### Subpart B—Disability Ratings

■ 1. The authority citation for part 4, subpart B continues to read as follows:

**Authority:** 38 U.S.C. 1155, unless otherwise noted.

■ 2. Amend § 4.71a as follows:

■ a. Revise diagnostic codes 5002, 5003, 5009–5015, 5023–5024, 5054, 5055, 5120, 5160, 5170, 5201, 5202, 5242, 5255, 5257, 5262, and 5271.

■ b. Remove diagnostic codes 5018, 5020, and 5022.

■ c. Add new introduction note to diagnostic codes 5051 through 5056 and add new diagnostic codes 5244 and 5285.

The revisions and additions read as follows:

**§ 4.71a Schedule of ratings—musculoskeletal system.**

ACUTE, SUBACUTE, OR CHRONIC DISEASES

| | Rating |
|---|---|
| * * * * * * * | |
| 5002 Multi-joint arthritis (except post-traumatic and gout), 2 or more joints, as an active process: | |
| * * * * * * * | |
| One or two exacerbations a year in a well-established diagnosis | 20 |
| **Note (1):** Examples of conditions rated using this diagnostic code include, but are not limited to, rheumatoid arthritis, psoriatic arthritis, and spondyloarthropathies. | |
| **Note (2):** For chronic residuals, rate under diagnostic code 5003. | |
| **Note (3):** The ratings for the active process will not be combined with the residual ratings for limitation of motion, ankylosis, or diagnostic code 5003. Instead, assign the higher evaluation. | |
| 5003 Degenerative arthritis, other than post-traumatic: | |
| * * * * * * * | |
| 5009 Other specified forms of arthropathy (excluding gout). | |

ACUTE, SUBACUTE, OR CHRONIC DISEASES—Continued

| | Rating |
|---|---|
| **Note (1):** Other specified forms of arthropathy include, but are not limited to, Charcot neuropathic, hypertrophic, crystalline, and other autoimmune arthropathies. | |
| **Note (2):** With the types of arthritis, diagnostic codes 5004 through 5009, rate the acute phase under diagnostic code 5002; rate any chronic residuals under diagnostic code 5003. | |
| 5010 Post-traumatic arthritis: Rate as limitation of motion, dislocation, or other specified instability under the affected joint. If there are 2 or more joints affected, each rating shall be combined in accordance with § 4.25. | |
| 5011 Decompression illness: Rate manifestations under the appropriate diagnostic code within the affected body system, such as arthritis for musculoskeletal residuals; auditory system for vestibular residuals; respiratory system for pulmonary barotrauma residuals; and neurologic system for cerebrovascular accident residuals. | |
| 5012 Bones, neoplasm, malignant, primary or secondary | 100 |
| **Note:** The 100 percent rating will be continued for 1 year following the cessation of surgical, X-ray, antineoplastic chemotherapy or other prescribed therapeutic procedure. If there has been no local recurrence or metastases, rate based on residuals. | |
| 5013 Osteoporosis, residuals of. | |
| 5014 Osteomalacia, residuals of. | |
| 5015 Bones, neoplasm, benign. | |
| * * * * * * * | |
| 5023 Heterotopic ossification. | |
| 5024 Tenosynovitis, tendinitis, tendinosis or tendinopathy. | |
| Evaluate the diseases under diagnostic codes 5013 through 5024 as degenerative arthritis, based on limitation of motion of affected parts. However, evaluate gout under diagnostic code 5003. | |
| * * * * * * * | |

PROSTHETIC IMPLANTS AND RESURFACING

| | Rating | |
|---|---|---|
| | Major | Minor |
| **Note:** When an evaluation is assigned for joint resurfacing or the prosthetic replacement of a joint under diagnostic codes 5051–5056, an additional rating under § 4.71a may not also be assigned for that joint, unless otherwise directed. | | |
| * * * * * * * | | |
| 5054 Hip, resurfacing or replacement (prosthesis) | | |
| Prosthetic replacement of the head of the femur or of the acetabulum: | | |
| For 4 months following implantation of prosthesis or resurfacing | | 100 |
| **Note:** At the conclusion of the 100 percent evaluation period, evaluate resurfacing under diagnostic codes 5250 through 5255. | | |
| * * * * * * * | | |
| 5055 Knee, resurfacing or replacement (prosthesis) | | |
| Prosthetic replacement of knee joint: | | |
| For 4 months following implantation of prosthesis or resurfacing | | 100 |
| **Note:** At the conclusion of the 100 percent evaluation period, evaluate resurfacing under diagnostic codes 5256 through 5262. | | |
| * * * * * * * | | |

AMPUTATIONS: UPPER EXTREMITY

| | Rating | |
|---|---|---|
| | Major | Minor |
| Arm, amputation of: | | |
| 5120 Complete amputation, upper extremity: | | |
| Forequarter amputation (involving complete removal of the humerus along with any portion of the scapula, clavicle, and/or ribs) | 100 | 100 |
| Disarticulation (involving complete removal of the humerus only) | 90 | 90 |
| * * * * * * * | | |

AMPUTATIONS: LOWER EXTREMITY

| | Rating |
|---|---|
| Thigh, amputation of: | |

AMPUTATIONS: LOWER EXTREMITY—Continued

| | Rating |
|---|---|
| 5160 Complete amputation, lower extremity | |
| Trans-pelvic amputation (involving complete removal of the femur and intrinsic pelvic musculature along with any portion of the pelvic bones) | 100 |
| Disarticulation (involving complete removal of the femur and intrinsic pelvic musculature only) | 90 |
| **Note:** Separately evaluate residuals involving other body systems (e.g., bowel impairment, bladder impairment) under the appropriate diagnostic code. | |
| * * * * * * * | |
| 5170 Toes, all, amputation of, without metatarsal loss or transmetatarsal, amputation of, with up to half of metatarsal loss | 30 |
| * * * * * * * | |

THE SHOULDER AND ARM

| | Rating | |
|---|---|---|
| | Major | Minor |
| * * * * * * * | | |
| 5201 Arm, limitation of motion of: | | |
| Flexion and/or abduction limited to 25° from side | 40 | 30 |
| Midway between side and shoulder level (flexion and/or abduction limited to 45°) | 30 | 20 |
| At shoulder level (flexion and/or abduction limited to 90°) | 20 | 20 |
| 5202 Humerus, other impairment of: | | |
| Loss of head of (flail shoulder) | 80 | 70 |
| Nonunion of (false flail joint) | 60 | 50 |
| Fibrous union of | 50 | 40 |
| Recurrent dislocation of at scapulohumeral joint: | | |
| With frequent episodes and guarding of all arm movements | 30 | 20 |
| With infrequent episodes, and guarding of movement only at shoulder level (flexion and/or abduction at 90°) | 20 | 20 |
| Malunion of: | | |
| Marked deformity | 30 | 20 |
| Moderate deformity | 20 | 20 |
| * * * * * * * | | |

THE SPINE

| | Rating |
|---|---|
| General Rating Formula for Diseases and Injuries of the Spine | |
| * * * * * * * | |
| 5242 Degenerative arthritis, degenerative disc disease other than intervertebral disc syndrome (also, see diagnostic code 5003). | |
| * * * * * * * | |
| 5244 Traumatic paralysis, complete: | |
| Paraplegia: Rate under diagnostic code 5110. | |
| Quadriplegia: Rate separately under diagnostic codes 5109 and 5110 and combine evaluations in accordance with § 4.25. | |
| **The Hip and Thigh** | |
| * * * * * * * | |
| 5255 Femur, impairment of: | |
| Fracture of shaft or anatomical neck of: | |
| With nonunion, with loose motion (spiral or oblique fracture) | 80 |
| With nonunion, without loose motion, weight bearing preserved with aid of brace | 60 |
| Fracture of surgical neck of, with false joint | 60 |
| Malunion of: | |
| Evaluate under diagnostic codes 5256, 5257, 5260, or 5261 for the knee, or 5250–5254 for the hip, whichever results in the highest evaluation. | |
| **The Knee and Leg** | |
| * * * * * * * | |
| 5257 Knee, other impairment of: | |

THE SPINE—Continued

| | Rating |
|---|---|
| Recurrent subluxation or instability: | |
| Persistent grade 3 instability despite operative intervention and a physician prescribes both bracing and assistive device (e.g., cane(s), crutch(es), or a walker) for ambulation | 30 |
| Persistent grade 3 instability without operative intervention, and a physician prescribes both bracing and assistive device (e.g., cane(s), crutch(es), or a walker) for ambulation | 20 |
| Persistent grade 1, 2, or 3 instability and a physician prescribes an assistive device (e.g., cane(s), crutch(es), or a walker) or bracing for ambulation | 10 |
| Patellar instability: | |
| With documented surgical repair, persistent instability either after the primary subluxation/dislocation event or due to recurrent instability | 30 |
| Without surgical repair, recurrent instability with one or more documented underlying anatomic abnormalities (e.g., direct damage to patellofemoral ligament complex, ''flake'' fractures, or abnormalities affecting the patella and/or femoral trochlea) | 20 |
| Without surgical repair, recurrent instability without documented underlying anatomic abnormalities | 10 |
| **Note (1):** Grade 1 is defined as 0–5 mm of joint translation, grade 2 is defined as 6–10 mm of joint translation, and grade 3 is defined as joint translation of equal to or greater than 11 mm. | |
| **Note (2):** For patellar instability, a surgical procedure that does not involve repair of one or more anatomic structures that contribute to the underlying instability shall not qualify as surgical repair for compensation purposes (including, but not limited to, arthroscopy to remove loose bodies and joint aspiration). | |
| * * * * * * * | |
| 5262 Tibia and fibula, impairment of: | |
| Nonunion of, with loose motion, requiring brace | 40 |
| Malunion of: | |
| Evaluate under diagnostic codes 5256, 5257, 5260, or 5261 for the knee, or 5270 or 5271 for the ankle, whichever results in the highest evaluation. | |
| Medial tibial stress syndrome (MTSS), or shin splints: | |
| With imaging evidence (X-rays, bone scan, or MRI), requiring treatment for no less than 12 consecutive months and unresponsive to shoe orthotics, other conservative treatment, or surgery, both lower extremities | 30 |
| With imaging evidence (X-rays, bone scan, or MRI), requiring treatment for no less than 12 consecutive months, and unresponsive to shoe orthotics, other conservative treatment, or surgery, one lower extremity | 20 |
| With imaging evidence (X-rays, bone scan, or MRI), requiring treatment for no less than 12 consecutive months, and unresponsive to both shoe orthotics and other conservative treatment, one or both lower extremities | 10 |
| Treatment less than 12 consecutive months, one or both lower extremities | 0 |
| * * * * * * * | |
| **The Ankle** | |
| * * * * * * * | |
| 5271 Ankle, limited motion of: | |
| Marked (less than 5 degrees dorsiflexion or less than 10 degrees plantar flexion) | 20 |
| Moderate (less than 15 degrees dorsiflexion or less than 30 degrees plantar flexion) | 10 |
| * * * * * * * | |
| **The Foot** | |
| * * * * * * * | |
| 5285 Plantar fasciitis: | |
| With symptoms not relieved by both non-surgical and surgical treatment: | |
| bilateral | 30 |
| unilateral | 20 |
| With symptoms relieved by either non-surgical or surgical treatment, unilateral or bilateral | 10 |
| **Note:** With actual loss of use of the foot, rate 40 percent. | |
| **The Skull** | |
| * * * * * * * | |

(Authority: 38 U.S.C. 1155)

* * * * *

■ 3. In § 4.73, add new introduction notes (1) and (2) and add new diagnostic codes 5330 and 5331 to read as follows:

**§ 4.73 Schedule of ratings—muscle injuries.**

**Note (1):** When evaluating any claim involving muscle injuries resulting in loss of use of any extremity or loss of use of both buttocks (diagnostic code 5317, Muscle Group XVII), refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation.

**Note (2):** Ratings of slight, moderate, moderately severe, or severe for diagnostic

codes 5301 through 5323 will be determined based upon the criteria contained in § 4.56.

* * * * *

MISCELLANEOUS

| | Rating |
|---|---|
| * * * * * * * | |
| 5330 Rhabdomyolysis, residuals of. | |
| Rate each affected muscle group separately and combine in accordance with § 4.25. | |
| **Note:** Separately evaluate any chronic renal complications within the appropriate body system. | |
| 5331 Compartment syndrome. | |
| Rate each affected muscle group separately and combine in accordance with § 4.25. | |

(Authority: 38 U.S.C. 1155)

■ 4. Amend Appendix A to Part 4 as follows:

■ a. In § 4.71a, revise diagnostic codes 5002, 5003, 5012, 5024, 5051–5056, 5255, 5257;

■ b. In § 4.71a, add diagnostic codes 5009–5011, 5013–5015, 5018, 5020, 5022–5023, 5120, 5160, 5170, 5201, 5202, 5242, 5244, 5262, 5271 and 5285;

■ c. In § 4.73, add new introduction note and diagnostic codes 5330 and 5331.

The revisions read as follows:

**Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946**

| Sec. | Diagnostic Code No. | |
|---|---|---|
| 4.71a | | |
| * * | * | * * * * * |
| | 5002 | Evaluation March 1, 1963; title, criteria, note [insert *effective date of final rule*] |
| | 5003 | Added July 6, 1950; title [insert *effective date of final rule]* |
| * * | * | * * * * * |
| | 5009 | Title, evaluation, note [insert *effective date of final rule*]. |
| | 5010 | Title, criteria [insert *effective date of final rule*]. |
| | 5011 | Title, criteria [insert *effective date of final rule*]. |
| | 5012 | Criterion March 10, 1976; title, note [insert *effective date of final rule*]. |
| | 5013 | Title [insert *effective date of final rule*]. |
| | 5014 | Title [insert *effective date of final rule*]. |
| | 5015 | Title [insert *effective date of final rule*]. |
| | 5018 | Removed [insert *effective date of final rule*]. |
| | 5020 | Removed [insert *effective date of final rule*]. |
| | 5022 | Removed [insert *effective date of final rule*]. |
| | 5023 | Title [insert *effective date of final rule*]. |
| | 5024 | Criterion March 1, 1963; title, criteria [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5051 | Added September 22, 1978; note [insert *effective date of final rule*]. |
| | 5052 | Added September 22, 1978; note [insert *effective date of final rule*]. |
| | 5053 | Added September 22, 1978; note [insert *effective date of final rule*]. |
| | 5054 | Added September 22, 1978; title, criterion, and note [insert *effective date of final rule*]. |
| | 5055 | Added September 22, 1978; title, criterion, and note [insert *effective date of final rule*]. |
| | 5056 | Added September 22, 1978; note [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5120 | Title, criterion [insert *effective date of final rule*]. |
| | 5160 | Title, criterion, note [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5170 | Title [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5201 | Criterion [insert *effective date of final rule*]. |
| | 5202 | Criterion [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5242 | Title [insert *effective date of final rule*] |
| * * | * | * * * * * |
| | 5244 | Added [insert *effective date of final rule*]. |

| Sec. | Diagnostic Code No. | |
|---|---|---|
| * * | * | * * * * * |
| | 5255 | Criterion July 6, 1950; criterion [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5257 | Evaluation July 6, 1950; criterion and note [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5262 | Criterion [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5271 | Criterion [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5285 | Added [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| 4.73 ..... | ..... | Introduction NOTE criterion July 3, 1997; second NOTE added [insert *effective date of final rule*]. |
| * * | * | * * * * * |
| | 5330 | Added [insert *effective date of final rule*]. |
| | 5331 | Added [insert *effective date of final rule*]. |

■ 5. Amend Appendix B to Part 4 as follows:

■ a. Revise diagnostic codes 5002, 5003, 5009–5015, 5023, 5024, 5054, 5055, 5120, 5160, 5170 and 5242;

■ b. Add diagnostic codes 5244, 5285, 5330, and 5331; and

■ c. Remove diagnostic codes 5018, 5020 and 5022.

The revisions read as follows:

**Appendix B to Part 4—Numerical Index of Disabilities**

| Diagnostic Code No. | |
|---|---|
| THE MUSCULOSKELETAL SYSTEM<br>Acute, Subacute, or Chronic Diseases | |
| * * | * * * * * |
| 5002 ..... | Multi-joint arthritis (except post-traumatic and gout), 2 or more joints, as an active process. |
| 5003 ..... | Degenerative arthritis, other than post-traumatic. |
| * * | * * * * * |
| 5009 ..... | Other specified forms of arthropathy (excluding gout). |
| 5010 ..... | Post-traumatic arthritis. |
| 5011 ..... | Decompression illness. |
| 5012 ..... | Bones, neoplasm, malignant, primary or secondary. |
| 5013 ..... | Osteoporosis, residuals of. |
| 5014 ..... | Osteomalacia, residuals of. |
| 5015 ..... | Bones, neoplasm, benign. |
| * * | * * * * * |
| 5023 ..... | Heterotopic ossification. |
| 5024 ..... | Tenosynovitis, tendinitis, tendinosis or tendinopathy. |
| * * | * * * * * |
| 5054 ..... | Hip, resurfacing or replacement (prosthesis). |
| 5055 ..... | Knee, resurfacing or replacement (prosthesis). |
| * * | * * * * * |
| AMPUTATIONS: UPPER EXTREMITY | |
| Arm, amputation of: | |
| 5120 ..... | Complete amputation, upper extremity. |
| * * | * * * * * |
| AMPUTATIONS: LOWER EXTREMITY | |
| Thigh, amputation of: | |
| 5160 ..... | Complete amputation, lower extremity. |

| Diagnostic Code No. | |
|---|---|
| * * * * * * * | |
| 5170 | Toes, all, amputation of, without metatarsal loss or transmetatarsal, amputation of, with up to half of metatarsal loss. |
| * * * * * * * | |
| SPINE | |
| * * * * * * * | |
| 5242 | Degenerative arthritis, degenerative disc disease other than intervertebral disc syndrome (also, see either 5003 or 5010). |
| * * * * * * * | |
| 5244 | Traumatic paralysis, complete. |
| * * * * * * * | |
| THE FOOT | |
| * * * * * * * | |
| 5285 | Plantar fasciitis. |
| * * * * * * * | |
| MUSCLE INJURIES | |
| * * * * * * * | |
| Miscellaneous | |
| * * * * * * * | |
| 5330 | Rhabdomyolysis, residuals of. |
| 5331 | Compartment syndrome. |
| * * * * * * * | |

■ 6. Amend Appendix C to Part 4 as follows:

■ a. Revise the entries for Amputation, Arthritis, New growths, Myositis ossificans, Tenosynovitis, Prosthetic Implants, and Hip;

■ b. Add entries in alphabetical order for Spine, Traumatic paralysis, complete; Plantar fasciitis; Rhabdomyolysis; and Compartment syndrome; and

■ c. Remove entries for Hydroarthrosis, intermittent; Synovitis; and Periostitis.

The revisions read as follows:

**Appendix C to Part 4—Alphabetical Index of Disabilities**

| | Diagnostic Code No. |
|---|---|
| * * * * * * * | |
| Amputation: | |
| Arm: | |
| Complete amputation, upper extremity | 5120 |
| Above insertion of deltoid | 5121 |
| Below insertion of deltoid | 5122 |
| Digits, five of one hand | 5126 |
| Digits, four of one hand: | |
| Thumb, index, long and ring | 5127 |
| Thumb, index, long and little | 5128 |
| Thumb, index, ring and little | 5129 |
| Thumb, long, ring and little | 5130 |
| Index, long, ring and little | 5131 |
| Digits, three of one hand: | |
| Thumb, index and long | 5132 |
| Thumb, index and ring | 5133 |
| Thumb, index and little | 5134 |
| Thumb, long and ring | 5135 |
| Thumb, long and little | 5136 |
| Thumb, ring and little | 5137 |

| | Diagnostic Code No. |
|---|---|
| Index, long and ring | 5138 |
| Index, long and little | 5139 |
| Index, ring and little | 5140 |
| Long, ring and little | 5141 |
| Digits, two of one hand: | |
| Thumb and index | 5142 |
| Thumb and long | 5143 |
| Thumb and ring | 5144 |
| Thumb and little | 5145 |
| Index and long | 5146 |
| Index and ring | 5147 |
| Index and little | 5148 |
| Long and ring | 5149 |
| Long and little | 5150 |
| Ring and little | 5151 |
| Single finger: | |
| Thumb | 5152 |
| Index finger | 5153 |
| Long finger | 5154 |
| Ring finger | 5155 |
| Little finger | 5156 |
| Forearm: | |
| Above insertion of pronator teres | 5123 |
| Below insertion of pronator teres | 5124 |
| Leg: | |
| With defective stump | 5163 |
| Not improvable by prosthesis controlled by natural knee action | 5164 |
| At lower level, permitting prosthesis | 5165 |
| Forefoot, proximal to metatarsal bones | 5166 |
| Toes, all, amputation of, without metatarsal loss or transmetatarsal, amputation of, with up to half of metatarsal loss | 5170 |
| Toe, great | 5171 |
| Toe, other than great, with removal metatarsal head | 5172 |
| Toes, three or more, without metatarsal involvement | 5173 |
| Thigh: | |
| Complete amputation, lower extremity | 5160 |
| Upper third | 5161 |
| Middle or lower thirds | 5162 |
| * * * * * * * | |
| Arthritis: | |
| Degenerative, other than post-traumatic | 5003 |
| Gonorrheal | 5004 |
| Other specified forms (excluding gout) | 5009 |
| Pneumococcic | 5005 |
| Post-traumatic | 5010 |
| Multi-joint (except post-traumatic and gout) | 5002 |
| Streptococcic | 5008 |
| Syphilitic | 5007 |
| Typhoid | 5006 |
| Arthropathy | 5009 |
| * * * * * * * | |
| Bones: | |
| Neoplasm, benign | 5015 |
| Neoplasm, malignant, primary or secondary | 5012 |
| Shortening of the lower extremity | 5275 |
| * * * * * * * | |
| Colitis, ulcerative | 7323 |
| Compartment syndrome | 5331 |
| * * * * * * * | |
| Dacryocystitis | 6031 |
| Decompression illness | 5011 |
| * * * * * * * | |
| Hernia: | |
| Femoral | 7340 |
| Hiatal | 7346 |
| Inguinal | 7338 |
| Muscle | 5326 |
| Ventral | 7339 |
| Heterotopic ossification | 5023 |

| | Diagnostic Code No. |
|---|---|
| Hip: | |
| Flail joint | 5254 |
| * * * * * * * | |
| Hodgkin's disease | 7709 |
| Hydronephrosis | 7509 |
| * * * * * * * | |
| Myocardial infarction | 7006 |
| Myositis | 5021 |
| * * * * * * * | |
| Osteomalacia, residuals of | 5014 |
| * * * * * * * | |
| Osteoporosis, residuals of | 5013 |
| * * * * * * * | |
| Paralysis: | |
| Accommodation | 6030 |
| Agitans | 8004 |
| Complete, traumatic | 5244 |
| * * * * * * * | |
| Pericarditis | 7002 |
| Peripheral vestibular disorders | 6204 |
| * * * * * * * | |
| Plague | 6307 |
| Plantar fasciitis | 5285 |
| * * * * * * * | |
| Prosthetic implants: | |
| Ankle replacement | 5056 |
| Elbow replacement | 5052 |
| Hip, resurfacing or replacement | 5054 |
| Knee, resurfacing or replacement | 5055 |
| * * * * * * * | |
| Retinitis | 6006 |
| Rhabdomyolysis, residuals of | 5330 |
| * * * * * * * | |
| Spinal stenosis | 5238 |
| Spine: | |
| Degenerative arthritis, degenerative disc disease other than intervertebral disc syndrome | 5242 |
| * * * * * * * | |
| Syndromes: | |
| Chronic Fatigue Syndrome (CFS) | 6354 |
| Cushing's | 7907 |
| Meniere's | 6205 |
| Raynaud's | 7117 |
| Sleep Apnea | 6847 |
| Syphilis | 6310 |
| * * * * * * * | |
| Tenosynovitis, tendinitis, tendinosis or tendinopathy | 5024 |
| * * * * * * * | |

[FR Doc. 2017–15766 Filed 7–31–17; 8:45 am]

BILLING CODE 8320–01–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R02–OAR–2016–0413; FRL–9965–48–Region 2]**

## Approval and Promulgation of Implementation Plans; New Jersey; Regional Haze Five-Year Progress Report State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve New Jersey's regional haze progress report, submitted on June 28, 2016, as a revision to its State Implementation Plan (SIP). New Jersey's SIP revision addresses requirements of the Clean Air Act and its implementing regulations that the State submit periodic reports describing progress toward reasonable progress goals established for regional haze and a determination of the adequacy of the State's existing regional haze SIP. New Jersey's progress report notes that New Jersey has implemented the measures in the regional haze SIP due to be in place by the date of the progress report and that visibility in federal Class I areas affected by emissions from New Jersey is improving and has already met the applicable reasonable progress goals for 2018. The EPA is proposing approval of New Jersey's determination that the State's regional haze SIP is adequate to meet these reasonable progress goals for the first implementation period, which extends through 2018, and requires no substantive revision at this time.

**DATES:** Comments must be received on or before August 31, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–OAR–2016–0413, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Robert F. Kelly, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249, or by email at *kelly.bob@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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I. Background
II. EPA's Evaluation of New Jersey's SIP Revision
A. Regional Haze Progress Report
B. Determination of Adequacy of Existing Regional Haze Plan
III. Proposed Action
IV. Statutory and Executive Order Reviews

### I. Background

States are required to submit a progress report in the form of a SIP revision that evaluates progress towards the reasonable progress goals (RPGs) for each mandatory Class I federal area [1] (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The progress report SIP is due five years after submittal of the initial regional haze SIP. On July 28, 2009, New Jersey submitted the State's first regional haze SIP in accordance with 40 CFR 51.308.[2]

On June 28, 2016, New Jersey submitted as a revision to its SIP its progress report which detailed the progress made in the first planning period toward implementation of the Long Term Strategy (LTS) outlined in the 2009 regional haze SIP submittal, the visibility improvement measured at Class I areas affected by emissions from New Jersey, and a determination of the adequacy of the State's existing regional haze SIP. The EPA is proposing to approve New Jersey's June 28, 2016 SIP submittal.

### II. EPA's Evaluation of New Jersey's SIP Revision

New Jersey's report on progress made in the first implementation period toward reasonable progress goals for Class I areas affected by emissions from sources in New Jersey (also known as a regional haze five-year progress report or progress report) was submitted to the EPA as a SIP revision. New Jersey has one Class I area within its borders, the Brigantine Wilderness Area (Brigantine). Emissions from New Jersey's sources were also found to impact visibility at several other Class I areas: Acadia National Park and the Moosehorn Wilderness Area in Maine, the Great Gulf Wilderness Area and Presidential Range/Dry River Wilderness Area in New Hampshire, and the Lye Brook Wilderness Area in Vermont. See 76 FR 49711 (August 11, 2011).

Through the consultation process, New Jersey agreed to pursue the coordinated course of action agreed to by the Mid-Atlantic/Northeast Visibility Union (MANE–VU) [3] to assure reasonable progress toward preventing any future, and remedying any existing, impairment of visibility in the mandatory Class I areas within the MANE–VU region. These strategies are commonly referred to as the MANE–VU ''ask.'' The MANE–VU ''ask'' includes: a timely implementation of best available retrofit technology (BART) requirements, 90 percent or more reduction in sulfur dioxide ($SO_2$) emissions at 167 electric generating units (EGUs) ''stacks'' identified by MANE–VU (or comparable alternative measures), lower sulfur fuel oil (with limits specified for each state) and continued evaluation of other control measures.[4] In summary, New Jersey is on track to fulfill the MANE–VU ''ask'' by meeting the deadlines for BART requirements, as of the date of the progress report, for all BART-eligible

[1] Areas designated as mandatory Class I federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). Listed at 40 CFR part 81, subpart D.

[2] On January 3, 2012, at 77 FR 19, EPA approved New Jersey's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze.

[3] MANE–VU is a collaborative effort of State governments, Tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the Northeastern United States. Member State and Tribal governments include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont.

[4] The MANE–VU ''ask'' was structured around the finding that $SO_2$ emissions were the dominate visibility impairing pollutant at the Northeastern Class I areas and electrical generating units comprised the largest $SO_2$ emission sector. See ''Regional Haze and Visibility in the Northeast and Mid-Atlantic States,'' January 31, 2001.

facilities described in the progress report, instituting 90 percent or more control at the four New Jersey units from the 167 EGUs identified by MANE–VU, and evaluating control measures including New Jersey's Mercury Rule, adoption of performance standards at all coal-fired boilers in New Jersey, adoption of the lower limits for sulfur in fuel oil and a variety of measures [5] developed for other programs that support regional haze emission reduction goals.

*A. Regional Haze Progress Report*

This section includes the EPA's analysis of New Jersey's progress report SIP submittal, and an explanation of the basis of our proposed approval.

New Jersey's 2009 regional haze SIP included the following key measures: control measures for the State's five subject-to-BART sources and control measures for four EGUs.

New Jersey has four of the 167 EGU stacks identified for control of sulfur dioxide emissions in the MANE–VU ''ask.'' Each has reduced sulfur dioxide emissions by 90 percent or more. These sources are Mercer 1 and 2, Hudson 2 and BL England 2 (see Table 3.1 of New Jersey's progress report).

New Jersey's sources that were eligible for BART controls are: Chevron Products, ConocoPhillips Bayway Refinery, PSEG Hudson Generating Station, Vineland Municipal Electric Utility—Howard M. Down, Unit 10, and BL England Generating Station, Units 1 and 2. As documented in Table 5.1 of New Jersey's progress report, each of these sources has acted to implement BART controls or shutdown, when these actions were due by the date of the progress report.

New Jersey's progress report also notes the implementation of the MANE–VU ''ask'' for sulfur content of fuel oil. The New Jersey rule,[6] approved by the EPA as part of New Jersey's regional haze plan, lowered the sulfur content of all distillate fuel oils (#2 fuel oil and lighter) to 500 parts per million (ppm) beginning on July 1, 2014 and to 15 ppm beginning on July 1, 2016. The sulfur content for #4 fuel oil was lowered to 2,500 ppm and for #6 fuel oil to a range of 3,000 to 5,000 ppm sulfur content beginning July 1, 2014.

New Jersey's progress report also documented implementation of New Jersey's Mercury Rule, adoption of performance standards at all coal-fired boilers in New Jersey, and other measures that also reduced emissions that caused haze. Although these measures were not relied upon as emission reductions for the regional haze plan, and the New Jersey progress report did not itemize the amount of reductions specifically from each of these programs, these reductions are included in the overall emission reductions calculated for the progress report.

In addition, the New Jersey progress report, in chapter 7, includes the status of $SO_2$ emission reductions from other states that affect Class I areas in MANE–VU relative to the MANE–VU ''ask.'' [7] New Jersey consulted with states in the eastern United States that affect visibility at the Class I area at Brigantine, outlining how they could meet the MANE–VU ''ask'' and help achieve the progress goals for Class I areas in New Jersey and other MANE–VU states. These emission reductions were included in modeling that predicted progress toward meeting the reasonable progress goals. The EPA proposes that New Jersey's summary of the status of implementation of measures in its regional haze progress report adequately addresses the applicable provisions under 40 CFR 51.308(g), as the State demonstrated the implementation of measures within New Jersey, including applying BART at eligible sources.

During the development of the regional haze SIP for the first planning period, MANE–VU and New Jersey determined that $SO_2$ was the greatest contributor to anthropogenic visibility impairment at the State's Class I areas. Therefore, the bulk of visibility improvement achieved in the first planning period was expected to result from reductions in $SO_2$ emissions from sources inside and outside of the State. Table 7.1 of New Jersey's Progress Report details the $SO_2$ emission reductions from 2002 to 2012 achieved at all the EGUs in the State, using the EPA's Clean Air Markets Division (CAMD) data. It demonstrates a 90 percent or greater reduction in $SO_2$ stack emissions for each of the four EGU stacks. Table 1 summarizes the reductions based on the State's emission inventory for 2012, compared to the State's projection for 2018.

TABLE 1—$SO_2$ EMISSION REDUCTIONS FROM THE NEW JERSEY EGU STACKS OF THE MANE–VU 167 STACKS

| Plant ID | Unit ID | Unit Name | Actual | | | Goal | |
|---|---|---|---|---|---|---|---|
| | | | Actual 2002 emissions (tons) | Actual 2012 emissions (tons) | Percent reduction (2012) (%) | Projected 2018 emissions (tons) | Percent Reduction expected in 2018 (%) |
| 61057 | 1 | Mercer 1 | 8,137 | 105 | 99 | 814 | 90 |
| 61057 | 2 | Mercer 2 | 5,918 | 105 | 98 | 592 | 90 |
| 12202 | 2 | Hudson 2 | 18,541 | 139 | 99 | 1,225 | 93 |
| 73242 | 1 | BL England 1 | 10,080 | 934 | 91 | 274 | 97 |

As New Jersey has documented the reduction of $SO_2$ emissions by more than 90 percent at EGU stacks located in New Jersey, the EPA proposes to find that New Jersey has adequately addressed the applicable provisions of 40 CFR 51.308(g). New Jersey has detailed the $SO_2$ and nitrogen oxides ($NO_X$) reductions from the 2002 regional haze baseline by using the most recently available year of data at the time of the development of New Jersey's Progress Report, which was 2013. In addition, New Jersey highlighted $SO_2$ emissions reductions from all of New Jersey's EGUs during this same time period.

The provisions under 40 CFR 51.308(g) also require that states with Class I areas within their borders provide information on current visibility conditions and the difference between current visibility conditions and baseline visibility conditions

[5] Table 1 at the EPA's proposed approval of New Jersey's regional haze SIP at 76 FR 49717 has the list of measures from other programs that also reduce the components of regional haze.

[6] EPA's approval of New Jersey's Sulfur in Fuel rule is noted at 40 CFR 52.1605.

[7] Memorandum from NESCAUM to MANE–VU ''Overview of State and Federal Actions Relative to MANE–VU Asks'' dated March 28, 2013. *http://www.nescaum.org/documents/summary-memo-mane-vu-asks-20130328-final.pdf/.*

expressed in terms of five-year averages of these annual values.

New Jersey has one Class I area, the Brigantine Wildlife Refuge. The Interagency Monitoring of Protected Visual Environments program (IMPROVE) includes a monitoring site located at Brigantine. New Jersey includes data in its progress report from the IMPROVE monitoring site to quantify air pollutants that constitute regional haze. Table 2 includes 2018 RPGs from the 2009 regional haze SIP and data from IMPROVE monitors at the Brigantine Class I area in New Jersey and in Class I areas where visibility is affected by emissions from New Jersey. This includes the baseline 2000–2004 five-year average visibility, and the most recent 2009–2013 five-year average visibility.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS

(All values in deciviews)

| Class I area IMPROVE* site | 2000–2004 5-year average | 2009–2013 5-year average | Met 2018 progress goal already? | 2018 Reasonable progress goal |
|---|---|---|---|---|
| 20% Most Impaired Days | | | | |
| Acadia National Park | 22.9 | 17.9 | Yes | 19.4 |
| Moosehorn Wilderness Area** | 21.7 | 16.8 | Yes | 19.0 |
| Great Gulf Wilderness Area*** | 22.8 | 16.7 | Yes | 19.1 |
| Lye Brook Wilderness Area | 24.4 | 18.8 | Yes | 20.9 |
| Brigantine Wilderness Area | 29 | 23.8 | Yes | 25.1 |
| 20% Least Impaired Days | | | | |
| Acadia National Park | 8.8 | 7.0 | Yes | 8.8 |
| Moosehorn Wilderness Area | 9.2 | 6.7 | Yes | 9.2 |
| Great Gulf Wilderness Area | 7.7 | 5.9 | Yes | 7.7 |
| Lye Brook Wilderness Area | 6.4 | 4.9 | Yes | 6.4 |
| Brigantine Wilderness Area | 14.3 | 12.3 | Yes | 14.3 |

* IMPROVE = Interagency Monitoring of Protected Visual Environments program.
** The IMPROVE monitor for Moosehorn Wilderness also represents Roosevelt Campobello International Park.
*** The IMPROVE monitor for Great Gulf Wilderness also represents Presidential Range—Dry River Wilderness Area.
Data from *Tracking Visibility Progress,* posted on NESCAUM's Web site at *http://www.nescaum.org/topics/regional-haze/regional-haze-documents,* supplemented by the latest IMPROVE data through 2013 as noted in New Jersey's progress report.

The baseline visibility for Brigantine was 29.0 deciviews (dv) on the 20 percent most impaired days and 14.3 dv on the least impaired days. The most recent five-year average visibility data shows an improvement of 5.2 dv on the 20 percent most impaired days and 2.0 dv improvement on the 20 percent least impaired days. New Jersey's progress report also demonstrates that the State has already achieved and surpassed the 2018 RPG at Brigantine for the 20 percent most impaired days and ensured no visibility degradation for the 20 percent least impaired days for the first planning period. Sites at Class I areas affected by sources in New Jersey also have surpassed the 2018 RPGs.

The EPA proposes to find that New Jersey provided the required information regarding visibility conditions to meet the applicable provisions under 40 CFR 51.308(g) specifically providing baseline visibility conditions (2000–2004), current conditions based on the most recently available IMPROVE monitoring data (2009–2013), and an assessment of the change in visibility impairment at its Class I areas.

In its progress report SIP, New Jersey presents data from statewide emissions inventories—New Jersey's State Periodic Emissions Inventory—developed for the years 2002 and 2011, plus projected inventories for 2018, for $SO_2$, $NO_X$, fine particles with diameters that are generally 2.5 micrometers and smaller ($PM_{2.5}$) and volatile organic compounds (VOCs). New Jersey's emissions inventories include the following source classifications: Point, area, on-road mobile, and non-road mobile. The progress report also includes more detailed information on reductions in sulfur oxides ($SO_X$) emissions from EGUs, and particulate matter (PM), $NO_X$ and $SO_X$ from BART-eligible sources.

Overall, New Jersey's emissions that affect visibility were reduced in all sectors for all pollutants, except for on-road direct emissions of PM. Compared to the 2002 emission inventory New Jersey used to model haze, emissions in 2011 were reduced by 82 percent for $SO_2$, 38 percent for $NO_X$, 23 percent for direct $PM_{2.5}$ and by 49 percent for VOCs. New Jersey's progress report also compared the latest EPA modeling inventory calculations for New Jersey for 2018 with New Jersey's portion of the MANE–VU inventory used to set the 2018 progress goal for Brigantine. For $NO_X$, $PM_{2.5}$, $SO_2$, and VOCs, the EPA's modeled emissions for 2018 are lower than the 2018 emissions used in MANE–VU's modeling.

In particular, New Jersey's emissions from each of the four EGU stacks addressed in its regional haze SIP were reduced by more than 90 percent from 2002 to 2011, the latest year actual emissions are available. Projected EGU emissions for 2018, the end of the first planning period, are expected to meet or exceed the 90 percent reduction target for each EGU stack. Actual $SO_2$ emissions from each of the BART-eligible sources declined by more than 90 percent from 2002 to 2012. PM and $NO_X$ emissions decreased overall, and for each source, except for PM emissions from the ConocoPhillips Bayway Refinery. ConocoPhillips has met its BART requirements, including control of PM, but PM emissions increased because refinery throughput was higher in 2012 than 2002.

New Jersey's data indicates its 2011 emissions for $SO_2$, PM and VOCs are lower than the 2018 emissions projections used to model its progress goal. Statewide $NO_X$ emissions have decreased by 28 percent to 182,140 tons per year by 2011, so as of 2011 they have not reached the 2018 target of 124,100 tons per year. However, modeling by the EPA [8] projects New

[8] *https://www.epa.gov/sites/production/files/2015-11/documents/o3transportaqmodelingtsd.pdf.*

Jersey's statewide $NO_X$ emissions to be reduced to 106,749 tons per year by 2018, so it is likely New Jersey will meet its emission targets by 2018.

The EPA is proposing that New Jersey adequately addressed the provisions of 40 CFR 51.308(g). The progress report compared the most recent updated emission inventory data available at the time of the development of the progress report with the baseline emissions used in the modeling for the regional haze SIP.

In its progress report SIP, New Jersey did not find any significant changes in emissions of $SO_X$, $NO_X$ and $PM_{2.5}$ which might have impeded or limited progress during the first planning period. As noted earlier, haze at Brigantine and other Class I areas affected by emissions from New Jersey has improved to levels that meet or exceed the RPG. The EPA therefore proposes to approve the New Jersey SIP submission.

In its progress report SIP, New Jersey concludes the elements and strategies relied on in its original regional haze SIP are sufficient to enable New Jersey and neighboring states to meet all established RPGs. As shown in Table 2, visibility on the least impaired and most impaired days from 2000 through 2011 has improved at all Class I areas affected by emissions from New Jersey (and all RPGs for 2018 have already been met). Visibility improvement at Brigantine has occurred for the most impaired days and no degradation of visibility has occurred for the least impaired days. Therefore, New Jersey concludes Brigantine is on track to meet the RPGs for 2018 based on the observed visibility improvement. The EPA proposes to agree that New Jersey has adequately addressed the provisions for first planning period progress reports. The EPA views this requirement as an assessment that should evaluate emissions and visibility trends and other readily available information. In its progress report, New Jersey described the improving visibility trends using data from the IMPROVE network and the downward emissions trends in key pollutants in the State and the MANE–VU region. New Jersey determined its regional haze SIP is sufficient to meet the RPGs for its own Class I area and the Class I areas outside the State impacted by the State's emissions.

New Jersey's visibility monitoring strategy relies upon participation in the IMPROVE network. The IMPROVE monitor at the Brigantine Wilderness Area is operated and maintained through a formal cooperative relationship between the EPA, the U.S. Fish and Wildlife Service, and New Jersey's Bureau of Monitoring. The IMPROVE monitor for the Brigantine Wilderness Area is located at the edge of the Wilderness Area. The air monitoring data collected is representative of the air quality within the wilderness area but does not disturb the wilderness area's ecology or natural resources. New Jersey finds that there is no need for additional monitoring sites or equipment. The EPA proposes to find that New Jersey has adequately addressed these provisions by reviewing the State's visibility monitoring strategy and determining no further modifications to the monitoring strategy are necessary.

*B. Determination of Adequacy of Existing Regional Haze Plan*

In its progress report, New Jersey submitted a negative declaration to EPA regarding the need for additional actions or emission reductions in New Jersey beyond those already in place and those to be implemented by 2018 according to New Jersey's regional haze plan.

In the 2016 SIP submittal, New Jersey determined the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's negative declaration is the finding that visibility has improved at all Class I areas in the MANE–VU region. In addition, $SO_2$, and PM emissions from the latest emission inventory for New Jersey have decreased to levels below the projections for 2018. While $NO_X$ reductions have yet to fully meet the 2018 projections, additional substantial $NO_X$ emission reductions are expected by 2018, as projected by the latest EPA modeling inventory.

The EPA proposes to conclude that New Jersey has adequately addressed the provisions under 40 CFR 51.308(h) because visibility and emission trends indicate that the Brigantine area, in addition to all the other Class I areas impacted by New Jersey's sources, are meeting or exceeding the RPGs for 2018, and expect to continue to meet or exceed the RPGs for 2018.

## III. Proposed Action

The EPA is proposing to approve New Jersey's June 28, 2016 regional haze progress report as meeting the requirements of 40 CFR 51.308(g) and (h).

## 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 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 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 EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175, because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Nitrogen oxides, Particulate matter, Regional haze, Sulfur oxides.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 10, 2017.

**Walter Mugdan,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 2017–15997 Filed 7–31–17; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R02–OAR–2015–0498; FRL–9965–47–Region 2]**

## Approval and Promulgation of Implementation Plans; New York; Regional Haze Five-Year Progress Report State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve New York State's regional haze progress report, submitted on June 16, 2015, as a revision to its State Implementation Plan (SIP). New York's SIP revision addresses requirements of the Clean Air Act and its implementing regulations that the State submit periodic reports describing progress toward reasonable progress goals established for regional haze and a determination of the adequacy of the State's existing regional haze SIP. New York's progress report notes that New York has implemented the measures in the regional haze SIP due to be in place by the date of the progress report and that visibility in federal Class I areas affected by emissions from New York State is improving and has already met the applicable reasonable progress goals for 2018. The EPA is proposing approval of New York's determination that the State's regional haze SIP is adequate to meet these reasonable progress goals for the first implementation period, which extends through 2018, and requires no substantive revision at this time.

**DATES:** Comments must be received on or before August 31, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–OAR–2015–0498 to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The Environmental Protection Agency (EPA) may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Robert F. Kelly, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249, or by email at *kelly.bob@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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### I. Background

States are required to submit a progress report in the form of a SIP revision that evaluates progress towards the reasonable progress goals (RPGs) for each mandatory Class I federal area [1] (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The progress report SIP for the first planning period is due five years after submittal of the initial regional haze SIP. On March 15, 2010, New York submitted the State's first regional haze SIP in accordance with 40 CFR 51.308.[2]

On June 16, 2015, New York submitted, as a revision to its SIP, its progress report which detailed the progress made in the first planning period toward implementation of the Long Term Strategy (LTS) outlined in the 2010 regional haze SIP submittal, the visibility improvement measured at Class I areas affected by emissions from New York State, and a determination of the adequacy of the State's existing regional haze SIP. The EPA is proposing to approve New York's June 16, 2015 SIP submittal.

### II. EPA's Evaluation of New York's SIP Revision

New York's report on progress made in the first implementation period toward reasonable progress goals for Class I areas affected by emissions from sources in New York (also known as a regional haze five-year progress report or progress report) was submitted to the EPA as a SIP revision. This progress report SIP submittal also included a determination that the State's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. New York State, in section 1.4 of its 2010 regional haze SIP submittal, used data from the report in Appendix A of its plan *Contributions to Regional Haze in the Northeast and Mid-Atlantic United States,* to determine that emissions from sources in New York State contribute to visibility impairment in the following Class I areas: Acadia National Park, Maine, Brigantine Wildlife Refuge, New Jersey, Great Gulf Wilderness Area, New Hampshire, Lye Brook Wilderness Area, Vermont, Moosehorn National Wildlife Refuge, Maine, Presidential Range-Dry River Wilderness Area, New Hampshire, and Roosevelt-Campobello International Park, Maine/Canada. See 77 FR 24794, 24799 (April 25, 2012). There are no Class I areas in New York.

Through the consultation process, New York agreed to reduce emissions by at least the amount obtained by the measures in the coordinated course of action agreed to by the Mid-Atlantic/Northeast Visibility Union (MANE–VU) [3] to assure reasonable progress

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[1] Areas designated as mandatory Class I federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). Listed at 40 CFR part 81, subpart D.

[2] On August 28, 2012, at 77 FR 51915, EPA approved New York's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze. The EPA promulgated a Federal Implementation Plan for Best Available Retrofit Technology (BART) for two sources where the EPA disapproved New York's BART determinations.

[3] MANE–VU is a collaborative effort of State governments, Tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the Northeastern United States. Member State and Tribal governments include: Connecticut, Delaware, the District of Columbia,

toward preventing any future, and remedying any existing, impairment of visibility in the mandatory Class I areas within the MANE–VU region. These strategies are commonly referred to as the MANE–VU ''ask.'' The MANE–VU ''ask'' includes: A timely implementation of best available retrofit technology (BART) requirements, 90 percent or more reduction in sulfur dioxide ($SO_2$) at 167 electric generating units (EGUs) ''stacks'' identified by MANE–VU (or comparable alternative measures), lower sulfur fuel oil (with limits specified for each state) and continued evaluation of other control measures.[4] In summary, New York is on track to fulfill the MANE–VU ''ask'' by meeting the deadlines for BART requirements, as of the date of the progress report, for all BART-eligible facilities as described in section 4 of New York's progress report, instituting 90 percent or more control at New York's share of the 167 EGUs identified by MANE–VU (Table 4.3 in the progress report), and adoption of the lower limits for sulfur in fuel oil.

*A. Regional Haze Progress Report*

This section includes the EPA's analysis of New York's progress report SIP submittal, and an explanation of the basis of our proposed approval.

New York's 2010 regional haze SIP[5] included the following key measures: Control measures for the State's subject-to-BART sources, control measures for EGU stacks, and low sulfur fuel oil. New York has eleven of the 167 EGU stacks identified for control of $SO_2$ emissions in the MANE–VU ''ask.'' Overall, New York's EGU stacks, as of the 2013 emission inventory, have reduced emissions by 97 percent, exceeding the MANE–VU ''ask.''

Between the New York State regional haze SIP and EPA's BART FIP, New York has BART determinations for fifteen sources. As documented in Table 3.1 of New York's progress report, these sources are implementing BART controls, or have been shut down.

New York has also adopted a State law reducing the sulfur content of fuel oil. The EPA, in approving New York regional haze SIP, approved the inclusion of the State sulfur in fuel law as a measure in New York's SIP.

The EPA proposes to find that New York's analysis in its regional haze progress report SIP adequately addresses the applicable provisions under 40 CFR 51.308(g), as the State demonstrated the implementation of measures within New York, including applying BART at eligible sources.

During the development of the regional haze SIP for the first planning period, MANE–VU and New York determined that $SO_2$ was the greatest contributor to anthropogenic visibility impairment at Class I areas. Therefore, the bulk of visibility improvement achieved in the first planning period was expected to result from reductions in $SO_2$ emissions from sources inside and outside of the State. Section 6 of New York's progress report shows the calculated reductions of $SO_2$ and other pollutants from 2002 though 2011. Section 7 of New York's progress report details the $SO_2$ emission reductions projected for 2018, compared with the 2011 emissions inventory. Pollutants that affect visibility, $SO_2$, nitrogen dioxide ($NO_2$) and particulate matter (PM), have been reduced substantially from 2002, and all except $NO_2$ already have lower emissions than projected for 2018. $NO_2$ emissions, having been reduced from 1,125,263 tons per year in 2002 to 444,048 tons per year in 2011, are well on their way to achieving the 2018 projection of 323,203 tons per year (see Tables 7.4, 7.5 and 7.6 in New York's progress report).

The EPA proposes to find New York has adequately addressed the provisions under 40 CFR 51.308(g). New York detailed the $SO_2$ and nitrogen oxides ($NO_X$) reductions from the 2002 regional haze baseline to 2011, the most recently available year of data at the time of the development of New York's progress report. In addition, New York highlighted $SO_2$ emissions reductions, as the pollutant targeted by MANE–VU states for the most reductions, from all of New York's EGUs during this same time period.

The provisions under 40 CFR 51.308(g) also require that states with Class I areas within their borders provide information on current visibility conditions and the difference between current visibility conditions and baseline visibility conditions expressed in terms of five-year averages of these annual values. New York has no Class I areas, but the Class I areas affected by emissions from New York have current visibility conditions better than baseline conditions, approaching the conditions predicted for 2018.

The Interagency Monitoring of Protected Visual Environments monitoring program (IMPROVE) provides data on the air pollutants that constitute regional haze. New York's progress report includes data from the IMPROVE sites at Class I areas affected by emissions from New York. The table shows the progress from the baseline 2000–2004 five-year average visibility through the most recent 2009–2013 five-year average visibility SIP.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS

[All values in deciviews]

| Class I area IMPROVE* site | 2000–2004 5-year average | 2009–2013 5-year average | Met 2018 progress goal already? | 2018 Reasonable progress goal |
|---|---|---|---|---|
| 20% Worst Days | | | | |
| Acadia National Park | 22.9 | 17.9 | Yes | 19.4 |
| Moosehorn Wilderness Area** | 21.7 | 16.8 | Yes | 19.0 |
| Great Gulf Wilderness Area*** | 22.8 | 16.7 | Yes | 19.1 |
| Lye Brook Wilderness Area | 24.4 | 18.8 | Yes | 20.9 |
| Brigantine Wilderness Area | 29 | 23.8 | Yes | 25.1 |

Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont.

[4] The MANE–VU ''Ask'' was structured around the finding that $SO_2$ emissions were the dominate visibility impairing pollutant at the Northeastern Class I areas and electrical generating units comprised the largest $SO_2$ emission sector. See ''Regional Haze and Visibility in the Northeast and Mid-Atlantic States,'' January 31, 2001.

[5] On August 28, 2012, (77 FR 51915), EPA finalized a limited approval of New York's March 15, 2010 SIP to address the first implementation period for regional haze. New York supplemented its SIP on August 2, 2010, April 16, 2012 and July 2, 2012. These supplements and a Federal Implementation Plan for two of New York's BART determinations are part of New York's plan to be evaluated by New York's progress report.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS—Continued

[All values in deciviews]

| Class I area IMPROVE* site | 2000–2004 5-year average | 2009–2013 5-year average | Met 2018 progress goal already? | 2018 Reasonable progress goal |
|---|---|---|---|---|
| 20% Best Days | | | | |
| Acadia National Park | 8.8 | 7.0 | Yes | 8.8 |
| Moosehorn Wilderness Area | 9.2 | 6.7 | Yes | 9.2 |
| Great Gulf Wilderness Area | 7.7 | 5.9 | Yes | 7.7 |
| Lye Brook Wilderness Area | 6.4 | 4.9 | Yes | 6.4 |
| Brigantine Wilderness Area | 14.3 | 12.3 | Yes | 14.3 |

* IMPROVE = Interagency Monitoring of Protected Visual Environments program.
** The IMPROVE monitor for Moosehorn Wilderness also represents Roosevelt Campobello International Park.
*** The IMPROVE monitor for Great Gulf Wilderness also represents Presidential Range—Dry River Wilderness Area.
Data from *Tracking Visibility Progress,* posted on NESCAUM's Web site at *http://www.nescaum.org/topics/regional-haze/regional-haze-documents,* supplemented by data from the IMPROVE network as included in New York's progress report.

The EPA notes the substantial progress, as the Class I areas affected by emissions from New York State have already achieved and surpassed the 2018 RPGs.

The EPA proposes to find New York provided the required information regarding visibility conditions to meet the applicable requirements under 40 CFR 51.308(g), specifically providing baseline visibility conditions (2000–2004), current conditions based on the most recently available IMPROVE monitoring data (2009–2013), and an assessment of the change in visibility impairment at its Class I areas.

In its progress report SIP, New York presents data from statewide emissions inventories—New York's State Periodic Emissions Inventory—developed for the years 2002 and 2011, plus projected inventories for 2018, for $SO_2$, $NO_X$, fine particles with diameters that are generally 2.5 micrometers and smaller ($PM_{2.5}$) and volatile organic compounds (VOCs). New York's emissions inventories include the following source classifications: Point, area, on-road mobile, and non-road mobile. The progress report also includes more detailed information on reductions in sulfur oxides ($SO_X$) emissions from EGUs, and PM, $NO_X$ and $SO_X$ from BART-eligible sources.

Overall, New York's emissions that affect visibility were reduced in all sectors for all pollutants, except for area source $NO_X$ emissions, which increased by 15,000 tons per year, compared to the 681,000 ton per year decrease in total $NO_X$ emissions in New York State. Compared to the 2002 inventory New York used to model haze, actual emissions in 2011 were reduced by 81 percent for $SO_2$, 61 percent for $NO_X$, and 28 percent for PM. The 2011 emissions from New York are below the projected 2018 emissions for $SO_2$ and PM, and only about one-third more than the $NO_X$ emissions projected for 2018. Since New York is successfully implementing its emission reductions programs in its regional haze SIP, New York is on track for its emissions in 2018 to be lower than the emissions reductions modeled for 2018 in its 2010 haze SIP.

The EPA is proposing to find that New York adequately addressed the provisions of 40 CFR 51.308(g). New York's progress report compared the most recent updated emission inventory data available at the time of the development of the progress report with the baseline emissions used in the modeling for the regional haze SIP.

In its progress report SIP, New York did not find any significant changes in emissions of $SO_X$, $NO_X$ and $PM_{2.5}$ which might have impeded or limited progress during the first planning period. As noted earlier, haze at Class I areas affected by emissions from New York has improved to levels that meet or exceed the RPG. The EPA therefore proposes to approve New York's SIP submission.

In its progress report SIP, New York concludes the elements and strategies relied on in its original regional haze SIP are sufficient to enable New York and neighboring states to meet all established RPGs. As shown in Table 2, visibility on least impaired and most impaired days from 2000 through 2013 has improved at all Class I areas affected by emissions from New York (and all RPGs have already been met).

The EPA proposes to agree New York has adequately addressed the provisions for the first planning period progress reports. The EPA views this requirement as an assessment that should evaluate emissions and visibility trends and other readily available information. In its progress report, New York described the improving visibility trends using data from the IMPROVE network and the downward emissions trends in key pollutants in the State and the MANE–VU region. New York determined its regional haze SIP is sufficient to meet the RPGs for the Class I areas impacted by the State's emissions.

New York does not have any Class I areas and is not required to monitor for visibility-impairing pollutants. New York's visibility monitoring strategy relies upon Class I areas' participation in the IMPROVE network. The EPA proposes to find New York has adequately addressed the requirements for a monitoring strategy for regional haze and proposes to determine no further modifications to the monitoring strategy are necessary.

*B. Determination of Adequacy of Existing Regional Haze Plan*

In its progress report, New York submitted a negative declaration to EPA regarding the need for additional actions or emission reductions in New York beyond those already in place and those to be implemented by 2018 according to New York's regional haze plan.

In the 2015 SIP submittal, New York determined the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's negative declaration is the finding that visibility has improved at all Class I areas in the MANE–VU region. In addition, $SO_2$ and PM emissions from the latest emission inventory for New York have decreased to levels below the projections for 2018.

The EPA proposes to conclude that New York has adequately addressed the provisions under 40 CFR 51.308(h) because visibility and emission trends indicate that Class I areas impacted by New York's sources are meeting or exceeding the RPGs for 2018, and expect to continue to meet or exceed the RPGs for 2018.

## III. Proposed Action

The EPA is proposing to approve New York State's regional haze progress report as meeting the requirements of 40 CFR 51.308(g) and (h).

## 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 they meet the criteria of the Clean Air Act. 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175, November 18, 2015, because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Regional haze, Sulfur oxides.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 10, 2017.

**Walter Mugdan,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 2017–15991 Filed 7–31–17; 8:45 am]

BILLING CODE 6560–50–P

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## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Part 252

**[Docket DARS–2017–0001]**

## Defense Federal Acquisition Regulation Supplement: DFARS Subgroup to the DoD Regulatory Reform Task Force, Review of DFARS Solicitation Provisions and Contract Clauses

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Extension of comment period.

**SUMMARY:** In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' the DFARS Subgroup to the DoD Regulatory Reform Task Force is seeking input on Defense Federal Acquisition Regulation Supplement (DFARS) solicitation provisions and contract clauses that may be appropriate for repeal, replacement, or modification. The comment period is extended three weeks.

**DATES:** For the request for public comment published on June 20, 2017 (82 FR 28041), submit comments by September 11, 2017.

**ADDRESSES:** Submit comments identified by DFARS–RRTF–2017–01, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for ''DFARS–RRTF–2017–01.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. Please include ''DFARS–RRTF–2017–01'' on any attached documents.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: DFARS Subgroup RRTF, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Johnson, telephone 571–372–6100; or Ms. Carrie Moore, telephone 571–372–6093.

**SUPPLEMENTARY INFORMATION:** On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. Section 3(e) of the E.O. 13777 calls on the Task Force to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, trade associations'' on regulations. On June 20, 2017, DoD solicited such input from the public to inform evaluation of the DFARS solicitation provisions and contract clauses by the Task Force's DFARS Subgroup. The comment period is extended three weeks from August 21, 2017, to September 11, 2017, to provide additional time for interested parties to provide input.

Although the agency will not respond to each individual comment, DoD may follow-up with respondents to clarify comments. DoD values public feedback and will consider all input that it receives. Furthermore, DoD may share inputs received in response to this notice with the ''Section 809 Panel'' (*section809panel.org; SEC809@DAU.MIL*) established under section 809 of the National Defense Authorization Act for Fiscal Year 2016, for the purpose of reviewing the acquisition regulations applicable to DoD with a view toward streamlining and improving the efficiency and effectiveness of the defense acquisition process and maintaining defense technology advantage.

**Jennifer L. Hawes,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2017–16057 Filed 7–31–17; 8:45 am]

**BILLING CODE 5001–06–P**

# Notices

Federal Register

Vol. 82, No. 146

Tuesday, August 1, 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

### Submission for OMB Review; Comment Request

July 27, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 31, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### Food Safety and Inspection Service

*Title:* Modernization of Poultry Slaughter Inspection.

*OMB Control Number:* 0583–0156.

*Summary of Collection:* The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

*Need and Use of the Information:* FSIS requires that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP plans, or Sanitation SOPs, or other prerequisite programs, written procedures to prevent contamination of carcasses and parts by enteric pathogens, *e.g., Salmonella* and *Campylobacter,* and fecal material throughout the entire slaughter and dressing operation. FSIS requires that these procedures include sampling for microbial organisms at the pre-chill and post-chill points in the process to monitor establishments' process control for enteric pathogens, except for low volume establishments that are required to test only at post-chill. If the information was not collected or collected less frequently it would reduce the effectiveness of the poultry products inspection program.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 3,001,920.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 191,204.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2017–16146 Filed 7–31–17; 8:45 am]

BILLING CODE 3410–DM–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### West Virginia Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The West Virginia Resource Advisory Committee (RAC) will meet in Elkins, West Virginia. 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=001t0000002JcuqAAC.*

**DATES:** The meeting will be held on August 15, 2017, from 10:00 a.m.–1:00 p.m.

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 in the Monongahela National Forest Headquarters Building, First Floor Conference Room, 200 Sycamore Street, Elkins, West Virginia. Participants who would like to attend by teleconference or by video conference, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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 Monongahela National Forest Headquarters Building. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Julie Fosbender, RAC Coordinator, by phone at 304–636–1800 extension 169 or via email at *jfosbender@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:

1. Provide an overview of the Secure Rural Schools and Community Self-Determination Act and the responsibilities of RAC members; and
2. Discuss how the RAC will function.

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 August 9, 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 to make oral comments must be sent to Julie Fosbender, RAC Coordinator, Monongahela National Forest Headquarters Building, 200 Sycamore Street, Elkins, West Virginia 26241; by email to *jfosbender@fs.fed.us;* or via facsimile to 304–637–0582.

*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: July 10, 2017.

**Glenn Casamassa,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017–16126 Filed 7–31–17; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Columbia County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Columbia County Resource Advisory Committee (RAC) will meet in Dayton, Washington. 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.

**DATES:** The meeting will be held on August 14, 2017, and will begin at 6:00 p.m.

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 the Dayton Fire Department, 111 Patit Road, Dayton, Washington 99328.

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 the Walla Walla Ranger District. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Mike Rassbach, Designated Federal Officer, by phone at 509–522–6293 or via email at *mrassbach@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:

1. Review of past projects and progress of continuing projects,
2. Discussion and selection of proposed projects, and
3. Allow for public comment.

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 August 7, 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 to make oral comments must be sent to Mike Rassbach, Designated Federal Officer, Walla Walla Ranger District, 1415 West Rose Street, Walla Walla, Washington 99362, by email to *mrassbach@fs.fed.us,* or via facsimile to 509–522–6000.

*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: July 5, 2017.

**Glenn Casamassa,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017–16127 Filed 7–31–17; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Saguache-Upper Rio Grande Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Saguache-Upper Rio Grande Resource Advisory Committee (RAC) will meet in Monte Vista, Colorado. 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=001t00000086exUAAQ.*

**DATES:** The meeting will be held on August 23, 2017, from 9:30 a.m. to 3:00 p.m.

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 the San Luis Valley Rural Electric Cooperative, Conference Room, 3625 West U.S. Highway 160, Monte Vista, Colorado.

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 Rio Grande National Forest (NF) Supervisor's Office. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Mike Blakeman, RAC Coordinator, by phone at 719–852–6212 or via email at *mblakeman@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, evaluate, and recommend project proposals to be funded with Title II money.

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 August 11, 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 to make oral comments must be sent to Mike Blakeman, RAC Coordinator, Rio Grande NF Supervisor's Office, 1803 West U.S. Highway 160, Monte Vista, Colorado, 81144; by email to *mblakeman@fs.fed.us;* or via facsimile to 719–852–6250.

*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: July 10, 2017.

**Glenn Casamass,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017–16125 Filed 7–31–17; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Umpqua and Diamond Lake Districts, Umpqua National Forest, Oregon, Calf Copeland Restoration Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement.

**SUMMARY:** Calf and Copeland Creek are major tributaries to the North Umpqua River and lie in the very center of the Umpqua National Forest. The 51,650 acre planning area is within a mixed-severity fire regime landscape in which the steep slopes and canyons historically tended to burn hot while the benches and ridges tended towards high-frequency, low-severity fire. As a consequence, the benches and ridges developed open stands of mixed-age Douglas-fir, sugar pine, ponderosa pine and incense-cedar. Fire suppression and past timber harvest have converted these areas to overstocked stands of predominately young Douglas-fir and white fir that are rapidly choking out the pine and leaving the entire landscape at risk to uncharacteristic wildfire. The Umpqua National Forest has witnessed a sharp increase in wildfire over the last couple of decades. During this period, tens of thousands of acres have burned within the planning area and the immediately adjacent watersheds, about 20,000 acres of which were stand replacement fire within habitat for the northern spotted owl.

This project proposes a combination of timber harvest, non-commercial thinning, and prescribed fire to reduce stem densities and improve the fuel profiles in plantations as well as in older stands with sugar or ponderosa pine. The project also proposes to create strategically placed shaded fuel breaks along roads to help manage wildfire to reduce the risk of stand replacement fire in the remaining late-successional and old-growth stands. Finally, the project would provide log placement in lower Calf Creek to improve stream conditions, restore two wetlands and possibly decommission or close roads to improve watershed conditions.

**DATES:** Comments concerning the scope of the analysis must be received by August 31, 2017. The Draft Environmental Impact Statement is expected December, 2018 and the Final Environmental Impact Statement is expected July, 2019.

**ADDRESSES:** Send written comments to 2900 NW Stewart Parkway, Oregon 97471. Comments may also be sent via email to *comments-pacificnorthwest-umpqua-northumpqua@fs.fed.us,* or via facsimile to 970–957–3283.

**FOR FURTHER INFORMATION CONTACT:** Richard Helliwell at 541–957–3337, *rhelliwell@fs.fed.us* or Amy Nathanson at 541–957–3338, *anathanson02@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 a.m. and 8 p.m., Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

**Purpose and Need for Action**

The purpose of this project is to provide greater landscape resiliency to wildfire and other disturbances. Integral to maintaining landscape resiliency is maintenance of legacy ponderosa and sugar pine and recruitment of new pine to begin replacing the trees that have been lost to competition in the wake of decades of fire suppression. Also essential to restoring fire resiliency is the need to restore the historic species composition and structure where it has been altered due to past timber management. In order to truly improve landscape resiliency it would be necessary to group management actions, as much as practical, into ecologically significant units that would allow fire to function more similarly to how it did historically. There is a need to manage for old-growth and late-successional habitat for the northern spotted owl and other old forest species to compensate, in part, for the many thousands of acres that have been converted to early seral habitat due to recent stand-replacement fires in and adjacent to the planning area. Finally, there is a need to improve aquatic conditions that have been altered through roads and past timber harvest.

**Proposed Action**

Restoration of mixed-conifer stands with sugar pine or ponderosa pine would occur on 1,777 acres. Treatment would consist of removal of all conifers under 20–24 inches diameter breast height (DBH) within 20–25 feet of the dripline of all healthy pine over 20 inches DBH. Overall canopy cover in the stands would be reduced to 40–60% canopy closure. No trees over 20–24″ DBH would be removed.

Non-commercial thinning, girdling or burning would occur on 185 acres. Non-commercial thinning would be comprised of predominately conifers under 7″ DBH, although larger trees up to 24″ DBH may be cut and left within 20 feet of the dripline of large pines. In some cases trees up to 24″ DBH could also be girdled in the vicinity of large pines rather than felled. Fuels treatments may consist of pile and burning or broadcast burning or both.

Thinning would occur on 1,147 acres of previously managed stands. All of these stands had been clearcut between 1956 and 1975 and planted to predominately Douglas-fir. These stands would be thinned to 40–60% canopy closure and small gaps of 0.5 to 3 acres would be created and planted to rust-resistant sugar pine or ponderosa pine. A 50 foot no entry buffer would be left along all streams, allowing for thinning

within the riparian reserve area outside of that 50 feet.

Shaded fuel breaks would be created along about 28 miles of road. The fuel break would remove conifers less than 7″ DBH and ladder fuels up to 150 feet on either side of the road. This would result in up to 1,033 acres of shaded fuel breaks although 216 of these acres overlaps with other proposed treatment stands.

Log placement would occur at eight locations along lower Calf Creek. The failing sump along Forest Service road 4750–200 would be restored to a series of three small wetlands. The small earthen dam would be removed and the new wetlands contoured in to take its place.

The wetland at Little Oak Flats that is currently being drained by Forest Service road 4770–030 would be restored to retain approximately its natural hydrologic state. About six miles of road would be decommissioned, including the last 1.7 miles of Forest Service road 2801 that follows Copeland Creek.

About 13 miles of road have been identified as not currently needed or expected to be needed within the next twenty years. These would be put into storage that would include pulling the culverts such that they would no longer be drivable. Of these, about 10 miles would be closed to all vehicle traffic while about three miles would still be accessible to motorized vehicles under 50″ in width.

### Responsible Official

North Umpqua District Ranger.

### Nature of Decision To Be Made

The deciding officer will decide whether to implement the proposed action, take an alternative action that meets the purpose and need or take no action.

### Preliminary Issues

Preliminary issues include vegetation management in areas designated as Late Seral Reserves under the Northwest Forest Plan as well as vegetation management in designated critical habitat for the threatened northern spotted owl. Management of the road system is an issue that has been identified for this project area. Noncommercial vegetation management in inventoried roadless areas and areas that are currently undeveloped is also an issue for this project.

### Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Public meetings and field trips will be planned for the summer of 2017. These meetings will be announced in the Roseburg News Review and the Umpqua National Forest Web page.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: July 19, 2017.

**Jeanne M. Higgins,**

*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2017–16129 Filed 7–31–17; 8:45 am]

**BILLING CODE 3411–15–P**

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## DEPARTMENT OF AGRICULTURE

## Forest Service

## Davy Crockett–Sam Houston Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Davy Crockett–Sam Houston Resource Advisory Committee (RAC) will meet in Ratcliff, Texas. 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: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcvhAAC.*

**DATES:** The meeting will be held on August 17, 2017, from 3:00 p.m. to 5:00 p.m.

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 Davy Crockett Ranger District, Conference Room, 18551 State Highway 7 East, Kennard, Texas. Participants who would like to attend by teleconference or by video conference, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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 Davy Crockett Ranger District. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Michelle Rowe, RAC Coordinator, by phone at (936) 655–2299 extension 224 or via email at *lrowe@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:

1. Introduce new members,
2. Elect a new chairman, and
3. Review and approve new RAC projects.

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 August 1, 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 to make oral comments must be sent to Gerald Lawrence, Jr., Designated Federal Officer, Davy Crockett Ranger District, 18551 State Highway 7 East, Kennard, Texas 75847; by email to *glawrence@fs.fed.us,* or via facsimile to 936–655–2817.

*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: July 10, 2017.

**Glenn Casamassa,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017–16128 Filed 7–31–17; 8:45 am]

**BILLING CODE 3411–15–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Alaska Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of public briefing on Alaska Native voting rights.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Alaska Advisory Committee (Committee) to the Commission will be held at 9:00 a.m. (Alaska Time) Thursday, August 24, 2017. The purpose of the briefing is for the Committee to receive testimony on Alaska Native voting rights. The Committee will examine the implementation of the *Toyukuk* v. *Treadwell* settlement and court order; and the potential impact of mail-in voting. The briefing will be held at Hilton Hotel, 500 West Third Avenue, Anchorage, AK 99501 in the Aleutian Room.

**DATES:** Thursday, August 24, 2017, from 9:00 a.m. to 5:00 p.m. AKDT

**LOCATION:** Hilton Hotel, 500 West Third Avenue, Anchorage, AK 99501 in the Aleutian Room.

**DATE:** The meeting will be held on Thursday, August 24, 2017, from 9:00 a.m. to 5:00 p.m. AKDT

**PUBLIC CALL INFORMATION:**

*Dial:* 888–510–1765.

*Conference ID:* 3264621.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 888–510–1765, conference ID number: 3264621. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (312) 353–8311, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting. Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=234.*

Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda:**

I. Welcome
II. Panel Presentations
III. Public Comment
IV. Adjournment

Dated: July 26, 2017.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017–16087 Filed 7–31–17; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Alaska Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Alaska Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Alaska Time) Monday, August 14, 2017, and 12:00 p.m. (Alaska Time) Tuesday, August 22, 2017. The purpose of the meetings is for the Committee to organize a briefing and finalize logistics on Alaska Native voting rights.

**DATES:** The first meeting will be held on Monday, August 14, 2017, at 12:00 p.m. AKDT.

The second meeting will be held on Tuesday, August 22, 2017, at 12:00 p.m. AKDT.

**PUBLIC CALL INFORMATION:**

*Dial:* 877–780–3379.

*Conference ID:* 9543788.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** These meeting are available to the public through the following toll-free call-in number: 877–780–3379, conference ID number: 9543788. Any interested member of the public may call this number and listen to the meetings. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=234.* Please click on the ''Meeting Details'' and ''Documents'' links. Records

generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

## Agenda

I. Welcome

II. Approval of Minutes

III. Discussion on In-Person Briefing

IV. Publicity

V. Public Comment

VI. Next Steps

VII. Adjournment

Dated: July 26, 2017.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017–16086 Filed 7–31–17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

## Initiation of Five-Year (Sunset) Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) listed below. The International Trade Commission (the Commission) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s).

**DATES:** August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

**SUPPLEMENTARY INFORMATION:**

### Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

### Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty order(s):

| DOC Case No. | ITC Case No. | Country | Product | Department contact |
|---|---|---|---|---|
| A–428–820 ..... | 731–TA–709 | Germany ..... | Seamless Line and Pressure Pipe (4th Review). | Jacqueline Arrowsmith (202) 482–5255. |

### Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: *http://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in these segments.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).[4] Parties are advised to review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt,* prior to submitting factual information in these segments.[5]

### Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*) (amending 19 CFR 351.303(g)).

[4] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013).

[5] *See Extension of Time Limits,* 78 FR 57790 (September 20, 2013).

of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

**Information Required From Interested Parties**

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[6]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

[6] *See* 19 CFR 351.218(d)(1)(iii).

Dated: June 30, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2017–16159 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Antidumping and Countervailing Duty Administrative Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with June anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

**DATES:** Applicable August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with June anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

**Notice of No Sales**

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

**Respondent Selection**

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if

companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

**Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

**Separate Rates**

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

**Initiation of Reviews**

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than June 30, 2018.

| | Period to be reviewed |
|---|---|
| **Antidumping Duty Proceedings** | |
| SPAIN:. | |
| Chlorinated Isocyanurates A–469–814 | 6/1/16–5/31/17 |
| Ercros, S.A. | |
| TAIWAN: | |
| Polyester Staple Fiber A–583–833 | 5/1/16–4/30/17 |
| The Fong Min International Co. Ltd. [4] | |

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes tothe official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separtate Rate Certification.

| | Period to be reviewed |
|---|---|
| THE PEOPLE'S REPUBLIC OF CHINA: | |
| Chlorinated Isocyanurates A–570–898 | 6/1/16–5/31/17 |
| Hebei Jiheng Chemical Co., Ltd. | |
| Heze Huayi Chemical Co. Ltd. | |
| Juancheng Kangtai Chemical Co. Ltd. | |
| High Pressure Steel Cylinders A–570–977 | 6/1/16–5/31/17 |
| Beijing Tianhai Industry Co. Ltd. | |
| Polyester Staple Fiber A–570–905 | 6/1/16–5/31/17 |
| Cixi Sansheng Chemical Fiber Co. | |
| Tapered Roller Bearings[5] A–570–601 | 6/1/16–5/31/17 |
| Apex Maritime Shanghai Co Ld. | |
| Changshan Peer Bearing Co., Ltd. | |
| CNH Industrial Italia SpA. | |
| Crossroads Global Trading Co Ltd. | |
| GGB Bearing Technology (Suzhou) Co., Ltd. | |
| GSP Automotive Group Wenzhou Co., Ltd. | |
| Hangzhou Hanji Auto Parts Co., Ltd. | |
| Hangzhou Radical Energy-Saving Technology Co., Ltd. | |
| Hangzhou Xiaoshan Dingli Machinery Co Ltd. | |
| Hubei New Torch Science & Technology Co Ltd. | |
| Kinetsu World Express China Co Ltd. | |
| Luoyang Bearing Corp. Group. | |
| Ningbo Xinglun Bearing Import & Export Co Ltd. | |
| Pacific Link Intl Freight Forwarding Co Ltd. | |
| Shanghai Dizhao Industrial Trading Co Ltd. | |
| Shanghai General Bearing Co., Ltd. | |
| Thi Group Shanghai Ltd. | |
| Wanxiang Group Corp. | |
| Weifang Haoxin-Conmet Mechanical Products Co Ltd. | |
| Yantai Huilong Machinery Parts Co Ltd. | |
| Zhejiang Machinery Import & Export Corp. | |
| Zhejiang Sihe Machine Co Ltd. | |
| Zhejiang Zhaofeng Mechanical & Electronic Co., Ltd. | |
| UNITED ARAB EMIRATES: Certain Steel Nails[6] A–520–804 | 5/1/16–4/30/17 |
| **Countervailing Duty Proceedings** | |
| THE PEOPLE'S REPUBLIC OF CHINA:. | |
| High Pressure Steel Cylinders C–570–978 | 1/1/16–12/31/16 |
| Beijing Tianhai Industry Co., Ltd. | |
| **Suspension Agreements** | |
| None. | |

## Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

## Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

## Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in the Department's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

## Factual Information Requirements

The Department's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires;

[4] On July 6, 2017 the Department *published Initiation of Antidumping and Countervailing Duty Administrative Reviews:* 82 FR 31292 (July 6, 2016) (*Initiation Notice*) in which the Department inadvertently included TFM North America, Inc. in its Initiation Notice. We did not intend to initiate a review of this company. This notice serves as a correction to the *Initiation Notice.*

[5] In the notice of opportunity to request administrative reviews that published on June 7, 2017 (82 FR 26443) the Department listed the period of review for the case Tapered Rolling Bearings from the PRC incorrectly. The correct period of review is listed above.

[6] On July 6, 2017 the Department published *Initiation of Antidumping and Countervailing Duty Administrative Reviews;* 82 FR 31292 (July 6, 2016) (*Initiation Notice*) in which the Department inadvertently misspelt Overseas Distribution Services Inc. as Overseas Distrubution Services Inc. This notice serves as a correction to the *Initiation Notice.*

(ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[7] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[8] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

**Extension of Time Limits Regulation**

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: July 26, 2017.

**James Maeder,**

*Senior Director, perfoming the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2017–16160 Filed 7–31–17; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**Background**

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

**Upcoming Sunset Reviews for September 2017**

The following Sunset Reviews are scheduled for initiation in September 2017 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Reviews).

| | Department Contact |
|---|---|
| **Antidumping Duty Proceedings** | |
| Polyester Staple Fiber from China (A–570–905) (2nd Review) | Matthew Renkey; (202) 482–2312. |
| Pure Magnesium in Granular Form from China (A–570–864) (3rd Review) | Robert James; (202) 482–0649. |

**Countervailing Duty Proceedings**

No Sunset Review of countervailing duty orders is scheduled for initiation in September 2017.

**Suspended Investigations**

No Sunset Review of suspended investigations is scheduled for initiation in September 2017.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year* (Sunset) *Reviews* provides further information regarding

[7] *See* section 782(b) of the Act.

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 30, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2017–16157 Filed 7–31–17; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–053]**

### Certain Aluminum Foil From the People's Republic of China: Postponement of Preliminary Determination of the Less-Than-Fair-Value Investigation

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Effective August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Tom Bellhouse at (202) 482–2057 or Michael J. Heaney at (202) 482–4475, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 30, 2017, the Department of Commerce (the Department) initiated an antidumping duty investigation concerning imports of certain aluminum foil from the People's Republic of China.[1] The notice of initiation stated that the Department, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1), would issue its preliminary determination no later than 140 days after the date of the initiation, unless postponed.[2] The current deadline for the preliminary determination of this investigation is no later than August 15, 2017.

#### Postponement of Preliminary Determination

On July 17, 2017, The Aluminum Association Trade Enforcement Working Group (the petitioners), made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), for a 50-day postponement of the preliminary determination in this investigation in order to provide the Department with sufficient time to review submissions and request supplemental information.[3] No other parties commented.

For the reasons stated above, and because there are no compelling reasons to deny the petitioners' request, the Department is postponing the deadline for the preliminary determination by 50 days, until October 4, 2017, in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).

In accordance with section 735(a)(1) of the Act, the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: July 26, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2017–16162 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Aluminum Foil from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 82 FR 15691 (March 30, 2017).

[2] *Id.,* 82 FR at 15695.

[3] *See* the letter from the petitioners to the Secretary of Commerce entitled, ''Antidumping Investigation of Certain Aluminum Foil from the People's Republic of China: Petitioners' Request for Postponement of the Preliminary Determination,'' dated July 17, 2017.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–602–810, A–351–850, A–403–805]**

### Silicon Metal From Australia, Brazil, and Norway: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** *Applicable:* August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith at (202) 482–1766 (Australia); Robert James at (202) 482–0649 (Brazil); or Brittany Bauer at (202) 482–3860 (Norway), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 28, 2017, the Department of Commerce (the Department) initiated less-than-fair-value (LTFV) investigations of imports of silicon metal from Australia, Brazil, and Norway.[1] Currently, the preliminary determinations are due no later than August 15, 2017.

#### Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a LTFV investigation within 140 days after the date on which the Department initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits the Department to postpone the preliminary determination until no later than 190 days after the date on which the Department initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. The

[1] *See Silicon Metal From Australia, Brazil and Norway: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 16352 (April 4, 2017) (*Initiation Notice*).

Department will grant the request unless it finds compelling reasons to deny it.

On July 10, 2017, the petitioner [2] submitted a timely request that the Department postpone the preliminary determinations in these LTFV investigations.[3] The petitioner stated that it requests postponement to provide adequate time for the Department to issue supplemental questionnaires and receive responses.[4] The petitioner further stated that these investigations involve complex issues, including further manufacturing, purchases of major inputs from affiliated parties, and the application of the ''special rule'' under section 772(e) of the Act.[5]

For the reasons stated above and because there are no compelling reasons to deny the request, the Department, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, the Department will issue its preliminary determinations no later than October 4, 2017. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will be 75 days after the date of publication of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: July 26, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2017–16161 Filed 7–31–17; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (the Department) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

**Respondent Selection**

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

**Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after August 2017, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to

[2] The petitioner in these investigations is Globe Specialty Metals, Inc.

[3] *See* Letter from the petitioner, ''Request for Postponement of Preliminary Determinations,'' dated July 10, 2017.

[4] *Id.*

[5] *Id.*

extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of August 2017,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August for the following periods:

| | Period of review |
|---|---|
| **Antidumping Duty Proceedings** | |
| Germany: | |
| Seamless Line and Pressure Pipe, A–428–820 | 8/1/16–7/31/17 |
| Sodium Nitrate A–428–841 | 8/1/16–7/31/17 |
| Japan: | |
| Brass Sheet & Strip, A–588–704 | 8/1/16–7/31/17 |
| Tin Mill Products A–588–854 | 8/1/16–7/31/17 |
| Malaysia: Polyethylene Retail Carrier Bags A–557–813 | 8/1/16–7/31/17 |
| Mexico: Light-Walled Rectangular Pipe and Tube A–201–836 | 8/1/16–7/31/17 |
| Republic of Korea: | |
| Large Power Transformers A–580–867 | 8/1/16–7/31/17 |
| Light-Walled Rectangular Pipe and Tube A–580–859 | 8/1/16–7/31/17 |
| Romania: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, And Pressure Pipe (Under 4 ½ Inches), A–485–805 | 8/1/16–7/31/17 |
| Socialist Republic of Vietnam: Silicomanganese A–552–801 | 8/1/16–7/31/17 |
| Thailand: Polyethylene Retail Carrier Bags A–549–821 | 8/1/16–7/31/17 |
| The People's Republic of China:. | |
| Floor-Standing, Metal-Top Ironing Tables and Parts Thereof A–570–888 | 8/1/16–7/31/17 |
| Hydrofluorocarbon Blends and Components Thereof, A–570–028 | 2/1/2016–7/31/2017 |
| Laminated Woven Sacks A–570–916 | 8/1/16–7/31/17 |
| Light-Walled Rectangular Pipe and Tube A–570–914 | 8/1/16–7/31/17 |
| Passenger Vehicle and Light Truck Tires A–570–016 | 8/1/16–7/31/17 |
| Petroleum Wax Candles A–570–504 | 8/1/16–7/31/17 |
| Polyethylene Retail Carrier Bags A–570–886 | 8/1/16–7/31/17 |
| Sodium Nitrate A–570–925 | 8/1/16–7/31/17 |
| Steel Nails A–570–909 | 8/1/16–7/31/17 |
| Sulfanilic Acid A–570–815 | 8/1/16–7/31/17 |
| Tetrahydrofurfuryl Alcohol A–570–887 | 8/1/16–7/31/17 |
| Tow-Behind Lawn Groomers and Parts Thereof A–570–939 | 8/1/16–7/31/17 |
| Ukraine: Silicomanganese A–823–805 | 8/1/16–7/31/17 |
| **Countervailing Duty Proceedings** | |
| Republic of Korea: Stainless Steel Sheet and Strip In Coils C–580–835 | 1/1/16–12/31/16 |
| The People's Republic of China: | |
| Laminated Woven Sacks C–570–917 | 1/1/16–12/31/16 |
| Light-Walled Rectangular Pipe and Tube C–570–915 | 1/1/16–12/31/16 |
| Passenger Vehicle and Light Truck Tires C–570–017 | 1/1/16–12/31/16 |
| Sodium Nitrite C–570–926 | 1/1/16–12/31/16 |
| **Suspension Agreements** | |
| None. | |

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-*

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

*Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

The Department no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[3] Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[4] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS Web site at *http://access.trade.gov*.[5] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of August 2017. If the Department does not receive, by the last day of August 2017, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: July 13, 2017.

**James Maeder,**

*Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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**BILLING CODE 3510–DS–P**

[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/*.

[3] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[4] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[5] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Calendar of Upcoming 2018 Trade Missions

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration (ITA) is announcing four upcoming trade missions that will be recruited, organized and implemented by ITA. These missions are:

- 10th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference Trade Mission to Vienna, Austria—September 18–19, 2017
- Smart Grid and Energy Storage Business Development Trade Mission to India—March 5–9, 2018
- Horizontal Trade Mission to the Caribbean in Conjunction with Trade Americas—Business Opportunities in the Caribbean Region Conference—May 6–11, 2018
- Oil and Gas Trade Mission to Rio de Janeiro, Brazil—September 19–21, 2018

A summary of each mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission Web site: *http://export.gov/trademissions.*

For each mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

*The following Conditions for Participation will be used for each mission:* Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may either: Reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a particular mission by the recruitment deadline, the mission may be cancelled.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the

products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

A trade association/organization applicant must certify to the above for all of the companies it seeks to represent on the mission.

In addition, each applicant must:

- Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified any matter pending before any bureau or office in the Department of Commerce;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

*The following Selection Criteria will be used for each mission:* Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination country. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant's (or in the case of a trade association/organization, represented firm or service provider's) products or services to these markets;
- The applicant's (or in the case of a trade association/organization, represented firm or service provider's) past, present, and prospective business activity in relation to the Mission's target market(s) and sector(s);
- The applicant's (or in the case of a trade association/organization, represented firm or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and
- Consistency of the applicant's (or in the case of a trade association/organization, represented firm or service provider's) goals and objectives with the stated scope of the mission.

Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

*Trade Mission Participation Fees:* If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee below is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

Participants selected for a trade mission will be expected to pay for the cost of personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. In the event that a mission is cancelled, no personal expenses paid in anticipation of a mission will be reimbursed. However, participation fees for a cancelled mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

If a visa is required to travel on a particular mission, applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas.

Trade Mission members participate in trade missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available at *https://travel.state.gov/content/passports/en/alertswarnings.html.* Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

*Definition of Small and Medium Sized Enterprise:* For purposes of assessing participation fees, the Department of Commerce defines Small and Medium Sized Enterprises (SME) as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

*Mission List:* (additional information about each mission can be found at *http://export.gov/trademissions*).

**10th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference Trade Mission to Vienna, Austria, September 18–19, 2017**

**Summary**

The United States Department of Commerce's (DOC) International Trade Administration (ITA), with participation from the U.S. Departments of Energy and State, is organizing the 10th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference, to be held September 18–19, 2017, in Vienna, Austria. The IAEA General Conference is the premier global meeting of civil nuclear policymakers and typically attracts senior officials and industry representatives from all 162 Member States. The U.S. Industry Program is part of the U.S. Department of Commerce's (DOC) Civil Nuclear Trade Initiative, a U.S. Government effort to help U.S. civil nuclear companies identify and capitalize on commercial civil nuclear opportunities around the world. The purpose of the program is to help the U.S. nuclear industry promote its services and technologies to an international audience, including senior energy policymakers from current and emerging markets as well as IAEA staff.

Representatives of U.S. companies from across the U.S. civil nuclear supply chain are eligible to participate. In addition, organizations providing related services to the industry, such as universities, research institutions, and U.S. civil nuclear trade associations, are eligible for participation. The mission will help U.S. participants gain market insights, make industry contacts, solidify business strategies, and identify or advance specific projects with the goal of increasing U.S. civil nuclear

exports to a wide variety of countries interested in nuclear energy.

The schedule includes: Meetings with foreign delegations and discussions with senior U.S. Government officials and IAEA staff on important civil nuclear topics including regulatory, technology and standards, liability, public acceptance, export controls, financing, infrastructure development, and R&D cooperation. Past U.S. Industry Programs have included participation by the U.S. Secretary of Energy, the Chairman of the U.S. Nuclear Regulatory Commission (NRC) and senior U.S. Government officials from the Departments of Commerce, Energy, State, the U.S. Export-Import Bank and the National Security Council.

There are significant opportunities for U.S. businesses in the global civil nuclear energy market. With 60 reactors currently under construction in 15 countries and 158 nuclear plant projects planned in 27 countries over the next 8–10 years, this translates to a market demand for equipment and services totaling $500–740 billion over the next ten years. This mission contributes to DOC's Civil Nuclear Trade Initiative by assisting U.S. businesses in entering or expanding in international markets.

**Schedule**

****Note that specific events and meeting times have yet to be confirmed****

*Monday, September 18*

7:00 a.m. Industry Program breakfast begins
8:00–9:45 a.m. U.S. Policymakers Roundtable
9:45–10:00 a.m. Break
10:00–11:00 a.m. USG Dialogue with Industry
11:00 a.m.–6:00 p.m. IAEA Side Events
11:00 a.m.–12:30 p.m. Break
12:30–6:00 p.m. Country Briefings for Industry Delegation (presented by foreign delegates)
7:30–9:30 p.m. U.S. Mission to the IAEA Reception

*Tuesday, September 19*

9:00 a.m.–6:00 p.m. Country Briefings for Industry (presented by foreign delegates)
10:00 a.m.–6:00 p.m. IAEA Side Event Meetings

**Participation Requirements**

Applicants must sign and submit a completed Trade Mission application form and satisfy all of the conditions of participation in order to be eligible for consideration. Applications will be evaluated on the applicant's ability to best satisfy the participation criteria.

A minimum of 15 and maximum of 50 companies and/or trade associations and/or U.S. academic and research institutions will be selected to participate in the mission. The Department of Commerce will evaluate applications and inform applicants of selection decisions on a rolling basis until the maximum number of participants has been selected.

**Fees and Expenses**

After a company or organization has been selected to participate on the mission, a payment to the DOC in the form of a participation fee is required. The fee covers ITA support to register U.S. industry participants for the IAEA General Conference Participants will be able to take advantage of U.S. Embassy rates for hotel rooms.

• The fee to participate in the event is *$1,600* for a large company and $1,200 for a small or medium-sized company (SME), a trade association, or a U.S. university or research institution. The fee for each additional representative (large company, trade association, university/research institution, or SME) is *$900.*

Participants selected for the Trade Mission will be expected to pay for the cost of all personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. In the event that the Mission is cancelled, no personal expenses paid in anticipation of a Trade Mission will be reimbursed. However, participation fees for a cancelled Trade Mission will be reimbursed to the extent they have not already been expended in the anticipation of the Mission.

**Timeline for Recruitment**

Recruitment for participation in the U.S. Industry Program as a representative of the U.S. nuclear industry will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the DOC trade mission calendar, notices to industry trade associations and other multiplier groups. Recruitment will begin 2 weeks after publication in the **Federal Register** and conclude no later than June 30, 2017. The ITA will review applications and make selection decisions on a rolling basis. Applications received after June 30, 2017, will be considered only if space and scheduling permit.

**Contacts**

Jonathan Chesebro, Industry & Analysis, Office of Energy and Environmental Industries, Washington, DC, Tel: (202) 482–1297, Email: *jonathan.chesebro@trade.gov*.

Devin Horne, Industry & Analysis, Office of Energy and Environmental Industries, Washington, DC, Tel: (202) 482–0775, Email: *devin.horne@trade.gov*.

**Smart Grid and Energy Storage Business Development Mission to India, March 5–9, 2018**

**Summary**

The United States Department of Commerce, International Trade Administration (ITA), is organizing an executive-led Smart Grid and Energy Storage Business Development Mission to India.

At a time when India strives to bring modernization, stability, and efficiency to its expanding power grid, U.S. companies can offer expertise, technology and solutions to meet the demand for innovative power transmission and distribution equipment, smart grid technology, and energy storage products and services. Mission participants will have the opportunity to discuss with key Indian decision makers how to foster policies, regulations, and financial investment that support the development of a sustainable and profitable grid. Participants will network with Indian Government officials, be introduced to prospective business partners, and facilitate discussions on best practices in their areas of technical expertise.

Mission participants will visit New Delhi, Hyderabad, and Mumbai to gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports of products and services to India. The mission will include customized one-on-one business appointments, meetings with state and local government officials, and networking events. In New Delhi, mission participants will have special access to the India Smart Grid Week conference, which will entail matchmaking and networking with utilities and officials visiting New Delhi from other states/regions.

**Proposed Timetable**

* Note: The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

| | |
|---|---|
| Sunday, March 4 | • Trade Mission Participants Arrive to New Delhi. |
| Monday, March 5 | • Welcome Breakfast Briefing.<br>• U.S. Embassy Briefing with Energy Agencies.<br>• Site Visit to Tata Power Delhi Distribution Ltd/Energy Storage Facility.<br>• Networking Lunch with Industry Chamber Membership.<br>• B2G Ministry Meetings/National Power Generation Co/National Grid Co.<br>• G2G Ministry Meetings in New Delhi.<br>• Networking Reception at Ambassador's Residence. |
| Tuesday, March 6 | • India Smart Grid Week Inauguration/Keynote by USG Executive Lead.<br>• Networking Lunch.<br>• One-on-One Business Matchmaking Appointments.<br>• India Smart Grid Week Conference. |
| Wednesday, March 7 | • India Smart Grid Week Conference.<br>• U.S.-India Smart Grid Workshop (Finance, Standards, etc).<br>• Invitational Lunch with Regional Utilities.<br>• One-on-One Business Matchmaking Appointments.<br>• Travel to Hyderabad. |
| Thursday, March 8 | • Breakfast Briefing with U.S. Consul General Hyderabad.<br>• Group Meeting with State of Telangana, Energy Officials.<br>• Site Visit to Telangana Distribution Company.<br>• Networking Lunch with Industry Chamber/Regional Utilities.<br>• One-on-One Business Matchmaking Appointments.<br>• Travel to Mumbai. |
| Friday, March 9 | • Briefing with U.S. Consul General Mumbai.<br>• Energy Finance Roundtable with Financial Institutions.<br>• Meeting with State of Maharastra, Energy Officials.<br>• Networking Lunch with Industry Chamber.<br>• One-on-One Business Matchmaking Appointments.<br>• Closing Remarks/Networking Cocktail.<br>• Trade Mission Participants Depart. |

**Participation Requirements**

Applicants must sign and submit a completed Trade Mission application form and satisfy all of the conditions of participation in order to be eligible for consideration. A minimum of 10 and maximum of 15 firms and/or trade associations will be selected to participate in the mission.

**Fees and Expenses**

After a firm or trade association has been selected to participate on the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. The participation fee for this Business Development Mission will be $5,800 for small or medium-sized enterprises (SME) [1]; and $6,300 for large firms or trade associations. The fee for each additional firm representative (large firm, SME or trade association) is $500.

Participants selected for the Trade Mission will be expected to pay for the cost of all personal expenses, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. In the event that the Mission is cancelled, no personal expenses paid in anticipation of the Trade Mission will be reimbursed. However, participation fees for a cancelled Trade Mission will be reimbursed to the extent they have not already been expended in anticipation of the Mission. Delegation members will be able to take advantage of U.S. Embassy rates for hotel room package, which typically includes breakfast and airport-hotel transfers. Local ground transportation within New Delhi, Hyderabad, and Mumbai for meetings and events will be provided for the group.

Participation in the India Smart Grid Week 2018 conference and networking lunches are included in the Trade Mission fee. Companies interested in opportunities for sponsoring, speaking, or exhibiting at India Smart Grid Week 2018 may contact the show organizers directly.

Participants must obtain a visa to enter India. Government fees and processing expenses to obtain visas are not included in the mission costs. The U.S. Department of Commerce will provide instructions to each participant on the procedures to obtain the required visas.

Trade mission members participate in this Business Development Mission and undertake mission-related travel at their own risk. The nature of a security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens, available at *https://travel.state.gov/content/passports/en/alertswarnings.html.* Any question regarding insurance coverage must be resolved by the participant and his/her insurers of choice.

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the U.S. Department of Commerce trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than December 12, 2017.

The Department of Commerce will evaluate applications and inform applicants of selection decisions three times during the recruitment period. All applications received subsequent to an evaluation date will be considered at the next evaluation. Deadlines for each round of evaluation are as follows:

- *First round:* July 28
- *Second round:* September 28
- *Final round:* December 12

Applications received after December 12, 2017, will be considered only if

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

space and scheduling constraints permit.

**Contacts**

Dinah McDougall, Commercial Officer, U.S. Embassy New Delhi, U.S. Department of Commerce, Tel: +91–11–2347–2192, Fax: +91–11–2331–5172, Email: *dinah.mcdougall@trade.gov*.

Victoria Gunderson, International Trade Specialist, Office of Energy and Environmental Industries, International Trade Administration, U.S. Department of Commerce, *victoria.gunderson@trade.gov*, Office: +1–202–482–7890, Mobile: +1–202–839–0000.

David Nufrio, International Trade Specialist, Office of South Asia, U.S. Department of Commerce, Phone: 202–482–5175, Email: *david.nufrio@trade.gov*.

Shannon Fraser, Global Energy Team, U.S. Commercial Service—San Jose/Silicon Valley, U.S. Department of Commerce, Email: *shannon.fraser@trade.gov*, Cell: 408–335–8979.

Mark Wells, Project Officer, U.S. Department of Commerce, Washington, DC, Tel: 202–482–0904, Email: *mark.wells@trade.gov*.

**Horizontal Trade Mission to the Caribbean Region in Conjunction With the Trade Americas—Business Opportunities in the Caribbean Region Conference—May 6–11, 2018**

**Summary**

The United States Department of Commerce, International Trade Administration, is organizing a trade mission to the Caribbean region, in conjunction with the Department of Commerce's *Trade Americas—Business Opportunities in the Caribbean Region Conference* in Miami, Florida. Trade mission participants will arrive in Miami on May 6, and will attend the *Trade Americas—Business Opportunities in the Caribbean Region Conference* on May 6th and 7th. On May 7th, following the morning session of the conference, trade mission participants will participate in one-on-one consultations with U.S. and Foreign Commercial Service (US&FCS) Commercial Officers and/or Economic/Commercial Officers from the following U.S. Embassies in the Caribbean region: The Bahamas, Barbados, Dominican Republic, Haiti, Jamaica, and Trinidad and Tobago. The following day, May 8, trade mission participants will travel to engage in business-to-business appointments, each of which will be with a pre-screened potential buyer, agent, distributor or joint-venture partner, in up-to two markets in the Caribbean Region.

The Department of Commerce's *Trade Americas—Business Opportunities in the Caribbean Region Conference* will focus on regional specific sessions, market access, logistics and trade financing resources as well as pre-arranged one-one-one consultations with US&FCS Commercial Officers and/or Department of State Economic/Commercial Officers with expertise in commercial markets throughout the region.

The mission is open to U.S. companies from a cross section of industries with growing potential in the Caribbean region, but is focused on U.S. companies in best prospects sectors such as Automotive Parts and Services, Construction Equipment/Road Building Machinery/Building Products/Infrastructure projects, Medical Equipment and Devices/Pharmaceuticals, ICT, Energy Equipment and Services, Safety and Security Equipment, Hotel and Restaurant Equipment, Franchise, Manufacturing Equipment, Yachting industry/Maritime services/Sailing Equipment.

The combination of participation in the *Trade Americas—Business Opportunities in the Caribbean Region Conference* and business-to-business matchmaking appointments in six Caribbean countries, will provide participants with access to substantive information about and strategies for entering or expanding their business across the Caribbean region.

**Schedule**

| | |
|---|---|
| May 6, 2018 | Travel Day/Arrival in Miami, FL. |
| May 7, 2018 | Miami, FL.<br>Morning: Registration and Trade Americas—Business Opportunities in the Caribbean Region Conference.<br>Afternoon: U.S. Embassy Officer Consultations.<br>Evening: Networking Reception. |

*Optional*

| | |
|---|---|
| May 8–11, 2018 | Travel and Business-to-Business Meetings in (choice of two markets):<br>Option (A) Dominican Republic.<br>Option (B) Bahamas.<br>Option (C) Barbados.<br>Option (D) Haiti.<br>Option (E) Jamaica.<br>Option (F) Trinidad and Tobago. |
| May 12, 2018 | Travel Day. |

**Participation Requirements**

All applicants must sign and submit a completed Trade Mission application form and satisfy all of the conditions of participation in order to be eligible for consideration. Applications will be evaluated on the applicant's ability to best satisfy the participation criteria.

A minimum of 20 and a maximum of 30 companies will be selected to participate in the mission. The Department of Commerce will evaluate applications and inform applicants of selection decisions on a rolling basis until the maximum number of

participants has been selected. During the registration process, applicants will indicate their markets of choice and will receive a brief market assessment for each of those markets. Applicants can select up-to two markets based on the selection criteria below. Companies that received favorable market opportunities in various markets may be able to participate in business-to-business meetings in a third market, if that post can accommodate those meetings. The number of companies that may be selected for each country are as follows: 20 companies for Dominican Republic, 3 companies for the Bahamas; 3 companies for Barbados; 4 companies for Haiti; 3 companies for Jamaica; and 3 companies for Trinidad and Tobago. U.S. companies already doing business in, or seeking to enter these markets for the first time may apply.

**Fees and Expenses**

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required.

For business-to-business meetings in one market, the participation fee will be $2,100 for a small or medium-sized enterprise (SME) * and $3,100 for large firms *.

For business-to-business meetings in two markets, the participation fee will be $2,800 for a small or medium-sized enterprise (SME) [2] * and $3,800 for large firms *.

The mission registration fee includes the *Trade Americas—Business Opportunities in the Caribbean Region Conference* registration fee of $400 per participant from each firm.

There will be a $200 fee for each additional firm representative (large firm or SME) that wishes to participate in business-to-business meetings in any of the markets selected.

Participants selected for the Trade Mission will be expected to pay for the cost of all personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. In the event that the Mission is cancelled, no personal expenses paid in anticipation of a Trade Mission will be reimbursed. However, participation fees for a cancelled Trade Mission will be reimbursed to the extent they have not already been expended in the anticipation of the Mission.

**Timeframe for Recruitment and Application**

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar on *www.export.gov,* the Trade Americas Web page at *http://export.gov/tradeamericas/index.asp,* and other Internet Web sites, press releases to the general and trade media, direct mail and broadcast fax, notices by industry trade associations and other multiplier groups and announcements at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than Friday, March 16, 2018. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of 30 participants are selected. After March 16, 2018, companies will be considered only if space and scheduling constraints permit.

**Contacts**

*U.S. Trade Americas Team Contact Information*

Diego Gattesco, Director, U.S. Commercial Service—Wheeling, WV, *Diego.Gattesco@trade.gov*, Tel: 304–243–5493.

Delia Valdivia, Senior International Trade Specialist, U.S. Commercial Service—Los Angeles (West), CA, *Delia.Valdivia@trade.gov*, Tel: 310–235–7203.

*Caribbean Region Contact Information*

David McNeill, Senior Commercial Officer, U.S. Commercial Service—U.S. Embassy, Santo Domingo, Dominican Republic, *David.McNeill@trade.gov*.

Maria Elena Portorreal, Regional Commercial Specialist, U.S. Commercial Service—U.S. Embassy, Santo Domingo, Dominican Republic, *Maria.Portorreal@trade.gov*.

**Oil and Gas Trade Mission to Rio De Janiero, Brazil—September 19–21, 2018**

**Summary**

The United States Department of Commerce International Trade Administration's (ITA) is organizing an Oil and Gas Trade Mission to Rio de Janeiro, Brazil, September 19–21, 2018.

The Trade Mission offers a timely and cost-effective means for U.S. firms to engage with key stakeholders and to enter the promising Brazilian oil and gas market for oil and gas equipment, technology, and services. The delegation will be comprised of at least 10 U.S. firms and a maximum of 15 U.S. firms representing a cross-section of U.S. oil and gas segments that have developed products and services for subsea (deep water) and onshore, oil and gas exploration and production U.S. oil and gas operators and representatives of U.S. oil and gas trade associations may also apply to be part of the 10–15 total participants.

**Schedule**

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|---|---|
| Tuesday, Sep 18, 2018 ..... | • Delegation arrives in Rio.<br>• Welcome lunch at hotel restaurant.<br>• Afternoon free. |
| Wednesday, Sep 19, 2018 .. | • Country Team Briefing at U.S. Consulate General Rio de Janeiro by Brazil Mission team. Topics: Brazil's economy, commercial environment, investment climate, IP issues, etc.<br>• Commercial & Legal Briefing by key industry players and a Law Office. Topics: Oil and Gas Opportunities in Brazil/Understanding Petrobras Tenders.<br>• Lunch with the Brazilian Speakers of the Commercial/Legal Briefing.<br>• One group meeting with Petrobras (U.S. companies to make presentations to Petrobras).<br>• Welcome cocktail Reception. |
| Thursday, Sep 20, 2018 ..... | • U.S. companies individual business-to-business appointments at the Brazilian company's offices. |

[2] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/size standardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

| | |
|---|---|
| Friday, Sep 21, 2018 ..... | • Site visit to a U.S. OEM (*e.g.*: Oceaneering or GE Wellstream—TBD).<br>• Mission participants lunch.<br>• One group meeting with another oil company (*e.g.*: Shell—TBD).<br>• Evening Departure (**). |

(**) As an option, trade mission participants may stay over the weekend and attend at least one day of the Rio Oil and Gas Trade Show that will take place from September 24–27, 2018. There is no additional costs to the participation fee for the optional trade show participation. There is free transportation offered by the show organizers to and from the conference grounds. All additional costs that TM participants will have do not apply to the TM participation fee.

**Participation Requirements**

Recruitment for the mission will begin immediately and conclude no later than July 30, 2018. All parties interested in participating in the trade mission must complete and submit an application package for consideration by the Department of Commerce. All applications must be submitted before July 30, 2018. The Department of Commerce will evaluate all applications and inform applicants of selection decisions as soon as possible after this application deadline.

Applications received after July 30, 2018, will be considered only if space and scheduling constraints permit.

**Fees and Expenses**

After a company or organization has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Trade Mission will be $2,010 for a small or medium-sized firm (SME), and $2,320 for large firms. The fee for each additional firm representative (large firm or SME/trade organization) is USD $750.00.

Participants selected for the Trade Mission will be expected to pay for the cost of all personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. In the event that the Mission is cancelled, no personal expenses paid in anticipation of a Trade Mission will be reimbursed. However, participation fees for a cancelled Trade Mission will be reimbursed to the extent they have not already been expended in the anticipation of the Mission.

Participants will be able to take advantage of U.S. Government rates for hotel rooms. Business or entry visas may be required to participate in the mission. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

**Timeframe for Recruitment and Application**

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than July 30, 2018. Applications received after July 30, 2018, will be considered only if space and scheduling constraints permit.

**Contacts**

Regina Cunha, Senior Commercial Specialist, U.S. Department of Commerce, Address: U.S. Consulate General. Avenida Presidente Wilson 147. Centro, Rio de Janeiro. Brazil. Tel.: # +55 21 38232416, Email: *regina.cunha@trade.gov*.

Rodrigo Correa, Commercial Assistant, U.S. Department of Commerce, Address: U.S. Consulate General. Avenida Presidente Wilson 147. Centro, Rio de Janeiro. Brazil. Tel.: # +55 21 38232406, Email: *rodrigo.correa@trade.gov*.

Stefan Popescu, Commercial Specialist, CS Toronto, Tel: 1 416–595–5412 x223, *Stefan.Popescu@trade.gov*.

Connie Irrera, Commercial Specialist, CS Montreal, Tel: 1 514–908–3662, *Connie.Irrera@trade.gov*.

Julius Svoboda, Senior Oil & Gas Trade Specialist, U.S. Department of Commerce, Address: 1401 Constitution Ave., Tel.: +1–202–482–5430, Email: *Julius.Svoboda@trade.gov*.

**Frank Spector,**

*Senior Advisor for Trade Missions.*

[FR Doc. 2017–16082 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

### Multistakeholder Process on Internet of Things Security Upgradability and Patching

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) will convene a meeting of a multistakeholder process on Internet of Things Security Upgradability and Patching on September 12, 2017.

**DATES:** The meeting will be held on September 12, 2017, from 10:00 a.m. to 4:00 p.m., Eastern Time. See **SUPPLEMENTARY INFORMATION** for details.

**ADDRESSES:** The meeting will be held at the American Institute of Architects, 1735 New York Ave. NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Allan Friedman, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone: (202) 482–4281; email: *afriedman@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs: (202) 482–7002; email: *press@ntia.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* In March of 2015 the National Telecommunications and Information Administration issued a Request for Comment to ''identify substantive cybersecurity issues that affect the digital ecosystem and digital economic growth where broad consensus, coordinated action, and the development of best practices could substantially improve security for organizations and consumers.'' [1] We received comments from a range of

[1] U.S. Department of Commerce, Internet Policy Task Force, Request for Public Comment, Stakeholder Engagement on Cybersecurity in the Digital Ecosystem, 80 FR 14360, Docket No. 150312253–5253–01 (Mar. 19, 2015), *available at: https://www.ntia.doc.gov/files/ntia/publications/cybersecurity_rfc_03192015.pdf.*

stakeholders, including trade associations, large companies, cybersecurity startups, civil society organizations and independent computer security experts.[2] The comments recommended a diverse set of issues that might be addressed through the multistakeholder process, including cybersecurity policy and practice in the emerging area of Internet of Things (IoT).

In a separate but related matter in April 2016, NTIA, the Department's Internet Policy Task Force, and its Digital Economy Leadership Team sought comments on the benefits, challenges, and potential roles for the government in fostering the advancement of the Internet of Things.'' [3] Over 130 stakeholders responded with comments addressing many substantive issues and opportunities related to IoT.[4] Security was one of the most common topics raised. Many commenters emphasized the need for a secure lifecycle approach to IoT devices that considers the development, maintenance, and end-of-life phases and decisions for a device.

After reviewing these comments, NTIA announced that the next multistakeholder process on cybersecurity would be on IoT security upgradability and patching.[5] The first meeting of a multistakeholder process on this topic was held on October 19, 2016.[6] Subsequent meetings were held on January 31, 2017,[7] April 26, 2017,[8] and July 18, 2017.[9]

The matter of patching vulnerable systems is now an accepted part of cybersecurity.[10] Unaddressed technical flaws in systems leave the users of software and systems at risk. The nature of these risks varies, and mitigating these risks requires various efforts from the developers and owners of these systems. One of the more common means of mitigation is for the developer or other maintaining party to issue a security patch to address the vulnerability. Patching has become more commonly accepted, even for consumers, as more operating systems and applications shift to visible reminders and automated updates. Yet as one security expert notes, this evolution of the software industry has yet to become the dominant model in IoT.[11]

To help realize the full innovative potential of IoT, users need reasonable assurance that connected devices, embedded systems, and their applications will be secure. A key part of that security is the mitigation of potential security vulnerabilities in IoT devices or applications through patching and security upgrades.

The ultimate objective of the multistakeholder process is to foster a market offering more devices and systems that support security upgrades through increased consumer awareness and understanding. Enabling a thriving market for patchable IoT requires common definitions so that manufacturers and solution providers have shared visions for security, and consumers know what they are purchasing. Currently, no such common, widely accepted definitions exist, so many manufacturers struggle to effectively communicate to consumers the security features of their devices. This is detrimental to the digital ecosystem as a whole, as it does not reward companies that invest in patching and it prevents consumers from making informed purchasing choices.

Stakeholders have identified four distinct work streams that could help foster better security across the ecosystem, and focused their efforts in four working groups addressing both technical and policy issues.[12] The main objectives of the September 12, 2017, meeting are to discuss stakeholder comments on draft working group documents, and, where possible, to finalize working group documents. More information about stakeholders' work is available at: *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security.*

*Time and Date:* NTIA will convene a meeting of the multistakeholder process on Internet of Things Security Upgradability and Patching on September 12, 2017, from 10:00 a.m. to 4:00 p.m., Eastern Time. The meeting date and time are subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security,* for the most current information.

*Place:* The meeting will be held at the American Institute of Architects, 1735 New York Ave. NW., Washington, DC 20006. The location of the meeting is subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security,* for the most current information.

*Other Information:* The meeting is open to the public and the press. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Allan Friedman at (202) 482–4281 or *afriedman@ntia.doc.gov* at least seven (7) business days prior to the meeting. The meeting will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to Allan Friedman at (202) 482–4281 or *afriedman@ntia.doc.gov* at least seven (7) business days prior to the meeting. There will be an opportunity for stakeholders viewing the webcast to

[2] NTIA has posted the public comments received at *https://www.ntia.doc.gov/federal-register-notice/2015/comments-stakeholder-engagement-cybersecurity-digital-ecosystem.*

[3] U.S. Department of Commerce, Internet Policy Task Force, Request for Public Comment, Benefits, Challenges, and Potential Roles for the Government in Fostering the Advancement of the Internet of Things, 81 FR 19956, Docket No 160331306–6306–01 (April 5, 2016), *available at: https://www.ntia.doc.gov/federal-register-notice/2016/rfc-potential-roles-government-fostering-advancement-internet-of-things.*

[4] NTIA has posted the public comments received at *https://www.ntia.doc.gov/federal-register-notice/2016/comments-potential-roles-government-fostering-advancement-internet-of-things.*

[5] NTIA, *Increasing the Potential of IoT through Security and Transparency* (Aug. 2, 2016), *available at: https://www.ntia.doc.gov/blog/2016/increasing-potential-iot-through-security-and-transparency.*

[6] NTIA, Notice of Multistakeholder Process on Internet of Things Security Upgradability and Patching Open Meeting (Sept. 15, 2016), *available at: https://www.ntia.doc.gov/federal-register-notice/2016/10192016-meeting-notice-msp-iot-security-upgradability-patching.*

[7] NTIA, Notice of 01/31/2017 Meeting of the Multistakeholder Process on Internet of Things Security Upgradability and Patching (January 11, 2017), available at *https://www.ntia.doc.gov/federal-register-notice/2017/notice-01312017-meeting-multistakeholder-process-internet-things.*

[8] NTIA, Notice of 04/26/2017 Meeting of the Multistakeholder Process on Internet of Things Security Upgradability and Patching, available at *https://www.ntia.doc.gov/federal-register-notice/2017/notice-04262017-meeting-multistakeholder-process-internet-things.*

[9] NTIA, Notice of 07/18/2017 Meeting of the Multistakeholder Process on Internet of Things Security Upgradability and Patching, available at *https://www.ntia.doc.gov/federal-register/2017/notice-07182017-iot-security-virtual-meeting.*

[10] *See, e.g.* Murugiah Souppaya and Karen Scarfone, *Guide to Enterprise Patch Management Technologies, Special Publication 800–40 Revision 3,* National Institute of Standards and Technology, NIST SP 800–40 (2013) *available at: http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-40r3.pdf.*

[11] Bruce Schneier, *The Internet of Things Is Wildly Insecure—And Often Unpatchable,* Wired (Jan. 6, 2014) *available at: https://www.schneier.com/blog/archives/2014/01/security_risks_9.html.*

[12] Documents shared by working group stakeholders are *available at: https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security.*

participate remotely in the meeting through a moderated conference bridge, including polling functionality. Access details for the meeting are subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security,* for the most current information.

Dated: July 27, 2017.

**Kathy D. Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2017–16155 Filed 7–31–17; 8:45 am]

**BILLING CODE 3510–60–P**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

### Community Broadband Workshop

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of Open Meeting.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA), through the BroadbandUSA program, will hold a Technical Assistance Workshop to share information and help communities build their broadband capacity and utilization. The workshop will present in-depth sessions on planning and funding broadband infrastructure projects. The session on planning will explore effective business and partnership models. The session on funding will explore available funding options and models, including federal funding.

**DATES:** The Technical Assistance Workshop will be held on Tuesday, September 19, 2017, from 8:30 a.m. to 12:30 p.m., Eastern Daylight Time.

**ADDRESSES:** The meeting will be held in Charleston, West Virginia at the Law Firm of Jackson Kelly PLLC, 500 Lee Street East, Suite 1600, Rooms A and B, Charleston, WV 25301.

**FOR FURTHER INFORMATION CONTACT:** Giselle Sanders, National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4889, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–7971; email: *gsanders@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email: *press@ntia.doc.gov.*

**SUPPLEMENTARY INFORMATION:** NTIA's BroadbandUSA program provides expert advice and field-proven tools for assessing broadband adoption, planning new infrastructure, and engaging a wide range of partners in broadband projects. BroadbandUSA convenes workshops on a regular basis to bring stakeholders together to discuss ways to improve broadband policies, share best practices, and connect communities to other federal agencies and funding sources for the purpose of expanding broadband infrastructure and adoption throughout America's communities. The Charleston workshop will explore two specific topics for broadband infrastructure: Planning and funding.

The Charleston workshop will feature subject matter experts from NTIA's BroadbandUSA broadband program. The first session will explore key elements required for planning successful broadband projects. The second session will explore funding models, including federal programs that fund broadband infrastructure projects.

The Charleston workshop will be open to the public. Pre-registration is requested, and space is limited. NTIA will ask registrants to provide their first and last names and email addresses for both registration purposes and to receive any updates on the workshop. If capacity for the meeting is reached, NTIA will maintain a waiting list and will inform those on the waiting list if space becomes available. Meeting updates, changes in the agenda, if any, and relevant documents will also be available on NTIA's Web site at *https://www2.ntia.doc.gov/notice-09192017-workshop.*

The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as language interpretation or other ancillary aids, are asked to notify Giselle Sanders at the contact information listed above at least five (5) business days before the meeting.

Dated: July 27, 2017.

**Kathy D. Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2017–16154 Filed 7–31–17; 8:45 am]

**BILLING CODE 3510–60–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before August 31, 2017.

**ADDRESSES:** Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0081''.

- *By email addressed to: OIRAsubmissions@omb.eop.gov* or
- *By mail addressed to:* the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the ''Commission'') by either of the following methods. The copies should refer to ''OMB Control No. 3038–0081''.

- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581;
- *By Hand Delivery/Courier to the same address;* or
- Through the Commission's Web site at *http://comments.cftc.gov.* Please follow the instructions for submitting comments through the Web site.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The

[1] 17 CFR 145.9.

Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Robert Wasserman, Chief Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–5092; email: *rwasserman@cftc.gov,* and refer to OMB Control No. 3038–0081.

**SUPPLEMENTARY INFORMATION:**

*Title:* Derivatives Clearing Organizations, General Regulations and International Standards; OMB Control No. 3038–0081. This is a request for extension of a currently approved OMB Control No. containing two information collections consolidated into OMB Control No. 3038–0081.

*Derivatives Clearing Organization General Provisions and Core Principles.*[2] Section 725(c) of the Dodd-Frank Act amended Section 5b(c)(2) of the CEA to allow the Commission to establish regulatory standards for compliance with the DCO core principles. Accordingly, the Commission adopted a final rule to set specific standards for compliance with DCO Core Principles.[3] The DCO Final Rule requires the appointment of a CCO, the filing of an annual report and adherence to certain recordkeeping requirements.[4] The information collected pursuant to those regulations is necessary for the Commission to evaluate whether DCOs are complying with Commission regulations.

*Derivatives Clearing Organizations and International Standards.*[5] In the SIDCO-Subpart C DCO Final Rule, the Commission adopted amendments to its regulations to establish additional standards for compliance with the DCO core principles set forth in Section 5b(c)(2) of the CEA for systemically important DCOs (''SIDCOs'') and DCOs that elect to opt-in to the SIDCO regulatory requirements (''Subpart C DCOs'') which are consistent with certain international standards.[6] Specifically, the additional requirements address any remaining gaps between the Commission's existing regulations and the Principles for Financial Market Infrastructures (''PFMI'') published by the Committee on Payments and Market Infrastructures and the Board of the International Organization of Securities Commissions.

The SIDCO-Subpart C DCO Final Rule also established the process whereby DCO and DCO applicants, respectively, may elect to become Subpart C DCOs subject to the provisions of Subpart C. The election involves filing the Subpart C Election Form contained in appendix B to part 39 of the Commission's regulations, which involves completing certifications, providing exhibits, and drafting and publishing responses to the PFMI Disclosure Framework and PFMI Quantitative Information Disclosure, as applicable. Additionally, the SIDCO-Subpart C DCO Final Rule provides for Commission requests for supplemental information from those requesting Subpart C DCO status; requires amendments to the Subpart C Election Form in the event that a DCO or DCO Applicant, respectively, discovers a material omission or error in, or if there is a material change in, the information provided in the Subpart C Election Form; to submit a notice of withdrawal to the Commission in the event the DCO or DCO applicant determines not to seek Subpart C DCO status prior to such status becoming effective; and procedures by which a Subpart C DCO may rescind its Subpart C DCO status after it has been permitted to take effect. Further, each of these requirements implies recordkeeping that would be produced by a DCO to the Commission on an occasional basis to demonstrate compliance with the rules. The information that would be collected under the SIDCO-Subpart C DCO Final Rule, part 39 of the Commission Regulations, is necessary for the Commission to determine whether a DCO meets the Subpart C DCO standards and is likely to be able to maintain compliance with such standards; to evaluate whether SIDCOs and Subpart C DCOs are complying with Commission regulations; and to perform risk analyses with respect to SIDCOs and Subpart C DCOs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. On May 30, 2017, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 82 FR 24688 (''60-Day Notice'').

*Burden Statement:* The Commission is not revising its estimate of the burden for this collection. The respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* With respect to the DCO Final Rule, the estimated number of respondents is 12. With respect to the SIDCO-Subpart C DCO Rule, the estimated number of respondents is 7.

*Estimated Average Burden Hours Per Respondent:* With respect to the DCO Final Rule, the estimated average burden hours is 80. With respect to the SIDCO-Subpart C DCO Rule, the estimated average burden hours is 2,502.

*Estimated Total Annual Burden Hours:* With respect to the DCO Final Rule, the total annual burden hours is estimated to be 960. With respect to the SIDCO-Subpart C DCO Rule, the total annual burden hours is estimated to be 17,512.

*Frequency of Collection:* With respect to the DCO Final Rule, the estimated frequency of collection is annual. With respect to the SIDCO-Subpart C DCO Rule, the frequency of collection is annual and occasional.

The total annual time burden for all respondents is estimated to be 18,472 hours.

See Appendix A for an individual breakdown for burden for annual reports provided for in Derivatives Clearing Organization General Provisions and Core Principles.

See Appendix B for an individual breakdown for burden for Derivatives Clearing Organizations and International Standards (Subpart C Election Form and other reporting and recordkeeping requirements provided

[2] The 60-day **Federal Register** notice, 82 FR 24688, May 30, 2017, identified this information collection as ''Annual report provided for in Derivatives Clearing Organization General Provisions and Core Principles.''

[3] *See* Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334 (November 8, 2011) (DCO Final Rule).

[4] These DCO recordkeeping requirements and associated costs are captured in separate proposed rulemakings under separate OMB Control Nos.; specifically, *see* Risk Management Requirements for Derivatives Clearing Organizations; 76 FR 3698 (Jan. 20, 2011)(OMB Control No. 3038–0076); Information Management Requirements for Derivatives Clearing Organizations, 75 FR 78185 (Dec. 15, 2010)) (OMB Control No. 3038–0069); and Financial Resources requirements for Derivatives Clearing Organizations, 75 FR 63113 (Oct. 14, 2010)(OMB Control No. 3038–0066).

[5] The 60-day **Federal Register** notice, 82 FR 24688, May 30, 2017, identified this information collection as Subpart C Election Form and other reporting and recordkeeping requirements provided for in subpart C, part 39 of the Commission Regulations.

[6] *See* Derivatives Clearing Organizations and International Standards, 78 FR 72476 (December 2, 2013) (SIDCO-Subpart C DCO Final Rule).

for in subpart C, part 39 of the Commission Regulations).

There are no capital costs or operating and maintenance costs associated with this collection.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: July, 25, 2017.

**Robert N. Sidman,**

*Deputy Secretary of the Commission.*

**Note:** The following appendices will not appear in the Code of Federal Regulations.

**Appendix A—Derivatives Clearing Organization General Provisions and Core Principles OMB Collection 3038–0081.**

The regulations under this final rulemaking require DCOs to report information to the Commission on an annual basis but allow the Commission to collect information at other times as necessary.

ANNUAL REPORTING REQUIREMENTS FOR DERIVATIVES CLEARING ORGANIZATIONS

| Estimated number of respondents per year | Reports annually by each respondent | Total annual responses | Estimated average number of hours per response | Estimated total number of hours of annual burden in fiscal year (maximum: 12×80) |
|---|---|---|---|---|
| 12 | 1 | 12 | 40–80 | 480–960 |

**Appendix B—Subpart C Election Form and Other Reporting and Recordkeeping Requirements Provided for in Subpart C, Part 39 of the Commission Regulations OMB Collection 3038–0081**

SIDCO/SUBPART C DCO REGULATIONS—REPORTING COLLECTION

| | Estimated number of respondents per year | Reports annually by each | Total annual responses | Estimated average number of hours per response | Estimated total number of hours of annual burden in fiscal year |
|---|---|---|---|---|---|
| Certifications—Subpart C Election Form | 5 | 1 | 5 | 25 | 125 |
| Exhibits A thru G—Subpart C Election Form | 5 | 1 | 5 | 155 | 775 |
| Disclosure Framework Responses | 5 | 1 | 5 | 200 | 1,000 |
| Quantitative Information Disclosures | 5 | 1 | 5 | 80 | 400 |
| Supplemental Information | 5 | 5 | 25 | 45 | 1,125 |
| Amendments to Subpart C Election Form | 5 | 3 | 15 | 8 | 120 |
| Withdrawal Notices | 1 | 1 | 1 | 2 | 2 |
| Rescission Notices | 1 | 75 | 75 | 3 | 225 |
| Written Governance Arrangements | 7 | 1 | 7 | 200 | 1,400 |
| Governance Disclosures | 7 | 6 | 42 | 3 | 126 |
| Financial and Liquidity Resource Documentation | 7 | 1 | 7 | 120 | 840 |
| Stress Test Results | 7 | 16 | 112 | 14 | 1,568 |
| Disclosure Framework Requirements (SIDCOs Only) | 2 | 1 | 2 | 200 | 400 |
| Disclosure Framework Requirements (Both) | 7 | 1 | 7 | 80 | 560 |
| Quantitative Information Disclosures (SIDCOs Only) | 2 | 1 | 2 | 80 | 160 |
| Quantitative Information Disclosures (Both) | 7 | 1 | 7 | 35 | 245 |
| Transaction, Segregation, Portability Disclosures | 7 | 2 | 14 | 35 | 490 |
| Efficiency and Effectiveness Review | 7 | 1 | 7 | 3 | 21 |
| Recovery and Wind-Down Plan | 7 | 1 | 7 | 480 | 3,360 |
| Totals | | 120 | 350 | 1,768 | 12,942 |

SIDCO/SUBPART C DCO REGULATIONS—RECORDKEEPING COLLECTION

| | Estimated number of recordkeepers per year | Records to be kept annually by each | Total annual responses | Estimated average number of hours per record | Estimated total number of hours of annual burden in fiscal year |
|---|---|---|---|---|---|
| Generally | 5 | 82 | 410 | 1 | 2,050 |

SIDCO/SUBPART C DCO REGULATIONS—RECORDKEEPING COLLECTION—Continued

| | Estimated number of recordkeepers per year | Records to be kept annually by each | Total annual responses | Estimated average number of hours per record | Estimated total number of hours of annual burden in fiscal year |
|---|---|---|---|---|---|
| Liquidity Resource Due Diligence and Testing | 7 | 4 | 28 | 10 | 280 |
| Financial and Liquidity Resources, Excluding Due Diligence | 7 | 4 | 28 | 10 | 280 |
| Generally | 7 | 28 | 196 | 10 | 1960 |
| Totals | | 118 | 662 | 31 | 4570 |

[FR Doc. 2017–16019 Filed 7–31–17; 8:45 am]

BILLING CODE 6351–01–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the Board of Visitors of Marine Corps University

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice, as is necessary, to facilitate high educational standards and cost effective operations. The Board will be focusing primarily on the internal procedures of Marine Corps University. All sessions of the meeting will be open to the public.

**DATES:** The meeting will be held on Thursday, September 14, 2017, from 9:00 a.m. to 4:30 p.m. and Friday, September 15, 2017, from 8:00 a.m. to 2:30 p.m. Eastern Time Zone.

**ADDRESSES:** The meeting will be held at Marine Corps University in Quantico, Virginia. The address is: 2076 South St., Quantico, VA.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kim Florich, Director of Faculty Development and Outreach, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number 703–432–4682.

Dated: July 24, 2017.

**A.M. Nichols,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2017–16150 Filed 7–31–17; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Intent To Prepare a Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for Mariana Islands Training and Testing

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA) of 1969 and regulations implemented by the Council on Environmental Quality, the Department of the Navy (DoN) announces its intent to prepare a supplement to the 2015 Final Mariana Islands Training and Testing (MITT) Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS).

**DATES:** Public scoping meetings will not be held, but public comments will be accepted during the scoping period from August 1, 2017 to September 15, 2017.

**ADDRESSES:** The DoN invites scoping comments on the MITT Supplemental EIS/OEIS from all interested parties. Substantive comments may be provided by mail to the address below and through the project Web site at *http://mitt-eis.com/*. Comments must be postmarked or received by September 15, 2017, for consideration during the development of the Draft Supplemental EIS/OEIS.

**FOR FURTHER INFORMATION CONTACT:** Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134.

**SUPPLEMENTARY INFORMATION:** The Navy will assess the potential environmental impacts associated with ongoing and proposed military readiness activities conducted within the MITT EIS/OEIS Study Area (hereafter known as the ''Study Area''). The Supplement to the 2015 Final EIS/OEIS is being prepared to support ongoing and future activities conducted at sea and on Farallon de Medinilla (FDM) within the Study Area beyond 2020. Military readiness activities include training and research, development, testing, and evaluation (hereafter known as ''testing''). The Supplemental EIS/OEIS will include an analysis of training and testing activities using new information available after the release of the 2015 Final MITT EIS/OEIS. New information includes an updated acoustic effects model, updated marine mammal density data, and other best available science. Proposed activities are generally consistent with those analyzed in the 2015 Final MITT EIS/OEIS and are representative of training and testing activities the DoN has been conducting in the Study Area for decades.

The Study Area remains unchanged since the 2015 Final MITT EIS/OEIS. The Study Area includes the existing Mariana Islands Range Complex (MIRC); areas on the high seas to the north and west of the MIRC; a transit corridor between the MIRC and the Hawaii Range Complex, starting at the International Date Line; and Apra Harbor and select DoN pierside and harbor locations. The Study Area includes only the in-water components of the range complex and FDM; land components associated with the range complex are not included in the Study Area.

As part of this process the DoN will seek the issuance of regulatory permits and authorizations under the Marine Mammal Protection Act and Endangered Species Act to support training and testing requirements within the Study Area, beyond 2020, thereby ensuring critical Department of Defense requirements are met.

Pursuant to 40 CFR 1501.6, the DoN will invite the National Marine Fisheries Service to be a cooperating agency in preparation of the Supplemental EIS/OEIS.

The DoN's lead action proponent is Commander, U.S. Pacific Fleet. Additional action proponents include Naval Sea Systems Command, Naval Air Systems Command, and the Office of Naval Research.

The DoN's Proposed Action is to conduct military training and testing activities within the Study Area. Activities include the use of active sonar and explosives while employing appropriate marine species protective mitigation measures. The Proposed Action does not alter the DoN's original purpose and need as presented in the 2015 MITT Final EIS/OEIS.

The purpose of the Proposed Action is to maintain a ready force, which is needed to ensure the military can accomplish its mission to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas, consistent with Congressional direction in section 5062 of Title 10 of the U.S. Code. A Supplemental EIS/OEIS is considered the appropriate document, as there is recent scientific information including revised acoustic criteria to consider, in furtherance of NEPA, relevant to the environmental effects of the DoN's Proposed Action, and the analysis will support Marine Mammal Protection Act authorization requests.

Proposed training and testing activities are generally consistent to those analyzed in the 2015 MITT Final EIS/OEIS. The Supplemental EIS/OEIS will propose changes to the tempo and types of training and testing activities, accounting for the introduction of new technologies, the evolving nature of international events, advances in war fighting doctrine and procedures, and changes in the organization of vessels, aircraft, weapon systems, and military personnel. The MITT Supplemental EIS/OEIS will reflect the compilation of training and testing activities required to fulfill the DoN's military readiness requirements beyond 2020, and therefore includes the analysis of newly proposed activities and changes to previously analyzed activities.

In the Supplemental EIS/OEIS, the DoN will evaluate the potential environmental impacts of a No Action Alternative and action alternatives. Resources to be evaluated include, but are not limited to, marine mammals, sea turtles, essential fish habitat, and threatened and endangered species.

The scoping process is used to identify public concerns and local issues to be considered during the development of the Draft Supplemental EIS/OEIS. Federal agencies, local agencies, the public, and interested persons are encouraged to provide substantive comments to the DoN on environmental resources and issue areas of concern the commenter believes the DoN should consider.

Comments must be postmarked or received online by September 15, 2017, for consideration during the development of the Draft Supplemental EIS/OEIS. Comments can be mailed to: Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI, 96869–3134. Comments can be submitted online via the project Web site at *http://mitt-eis.com/.*

Dated: July 20, 2017.

**A.M. Nichols,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2017–15939 Filed 7–31–17; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

### Final Waiver and Extension of the Project Period for the Native American Career and Technical Education Program

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.101A]

**AGENCY:** Office of Career, Technical, and Adult Education, Department of Education.

**ACTION:** Final waiver and extension of the project period.

**SUMMARY:** For the 24-month projects originally funded in fiscal year (FY) 2013 and extended for an additional 24-months in FY 2015 under the Native American Career and Technical Education Program (NACTEP), the Secretary: Waives the requirements in Education Department regulations that generally prohibit project extensions involving the obligation of additional Federal funds; and extends the project period for the current 30 NACTEP grantees for an additional 12 months under the existing program authority. This waiver and extension will allow the 30 current NACTEP grantees to seek FY 2017 continuation awards for the project period through FY 2018.

**DATES:** As of August 1, 2017, the waiver and extension of the project period are finalized.

**FOR FURTHER INFORMATION CONTACT:** Gwen Washington by telephone at (202) 245–7790 or by email at *gwen.washington@ed.gov.* You may also contact Linda Mayo by telephone at (202) 245–7792 or by email at *linda.mayo@ed.gov.* If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** On April 26, 2017, we published a notice in the **Federal Register** (82 FR 19240) proposing to waive the requirements of 34 CFR 75.261(a) and (c)(2) that generally prohibit project period extensions involving the obligation of additional Federal funds. In that notice, the Secretary also proposed to extend the NACTEP project period for up to an additional 12 months. The proposed waiver and extension of project period would enable the Secretary to provide continuation awards to the current NACTEP grantees through FY 2018 under the existing program authority.

That notice contained background information and our reasons for proposing the waiver and extension of the project period. This notice makes the waiver and extension of the project period final. Any activities carried out during the period of a NACTEP continuation award must be consistent with, or a logical extension of, the scope, goals, and objectives of the grantee's application as approved in the FY 2013 NACTEP competition. The requirements applicable to continuation awards for this competition set forth in the 2013 notice inviting applications and the requirements in 34 CFR 75.253 will apply to any continuation awards sought by the current NACTEP grantees.

We will make decisions regarding the continuation awards based on grantee program narratives, budgets and budget narratives, program performance reports, and the requirements in 34 CFR 75.253. We will not announce a new competition or make new awards in FY 2017.

The final waiver and project period extension will not exempt the current NACTEP grantees from the appropriation account closing provisions of 31 U.S.C. 1552(a), nor will it extend the availability of funds previously awarded to current NACTEP grantees. As a result of 31 U.S.C. 1552(a), appropriations available for a limited period may be used for payment of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the U.S. Department of the Treasury and is unavailable for restoration for any purpose (31 U.S.C. 1552(b)).

*Public Comment:* In response to our invitation in the proposed waiver and extension, we received 85 comments.

Generally, we do not address general comments that raise concerns not directly related to the proposed waiver and extension.

There are no substantive differences between the proposed waiver and extension and the final waiver and extension.

**Analysis of Comments and Discussion**

*Comments:* All of the commenters expressed support for the proposed waiver and extension of the NACTEP project period, or the NACTEP in general. The commenters provided various reasons for their support.

Several commenters stated that continuing the NACTEP projects will assist students in completing their Career and Technical Education (CTE) programs and provide students with an opportunity to progress toward a fulfilling career. One commenter also indicated that the NACTEP has greatly assisted Tribal Colleges and Tribal communities, which directly benefit from educated students.

Another commenter indicated that the NACTEP has empowered many Tribal members with a sense of hope and promise with regard to the reality that education is attainable, where there was very little opportunity prior to the presence of the NACTEP.

One commenter stated that a continuation of the NACTEP for an additional 12 months enables a sound use of funds as these funds will support programs that are currently supporting Native American communities in need of CTE programs that improve community vitality and economic stability. The commenter also stated that a lapse of funds would create a set-back in the progress made by grantees, such as the relationship established with a local community college to provide in-demand training within Native American communities. Another commenter stated that the extension would allow their Tribe to focus on maintaining its current NACTEP-funded programs, while also capitalizing on the current momentum of service delivery through programs that are already in place and operational.

We received many comments from NACTEP students who supported the proposed waiver and extension of the project period. Students indicated that the NACTEP helped them to achieve their educational goals, which included associate degrees and certificate programs. Numerous students noted how certificates and degrees earned with the NACTEP assistance had correlated to job promotions or better career prospects. Additionally, several of these students indicated that without the NACTEP assistance of educational supplies, child care, transportation, and other financial assistance, education would not have been attainable for them.

Several students indicated that the direct assistance provided by the NACTEP resulted in students completing their CTE training. One student noted that he hoped the program could be extended so that he could obtain his certificate in leadership training.

Another student indicated that the NACTEP has been the most useful part of the student's career due to its ''hands-on'' and practical nature. The student stated that the NACTEP benefits the individual, the business organization, and the community at large.

We received several comments from current and former instructors who supported the proposed waiver and extension of the project period. Multiple instructors indicated that the NACTEP was positively impacting the community, as well as students. One commenter noted that the NACTEP assistance increased the cultural pride of students, which led to greater community involvement. Additionally, another commenter indicated that the NACTEP grants have enabled students to attain industry-recognized credentials and escape homelessness situations.

Another commenter stated that systems are already in place for a smooth start-up, enrollment, and pathway for both new students and students who are in the middle of their certificate programs. Additionally, this commenter indicated that the NACTEP has helped to create leaders for the Tribe, who serve as role models in informed, effective, proactive, and supportive management, which has a rippling effect throughout the Tribal community. The commenter also indicated that because of the NACTEP, many students have experienced their first college classes, and are the first in their families to do so.

Finally, some commenters noted the valuable services provided through the NACTEP to students and other community members. One commenter stated that a continuation would be the most rational approach for grantees. Another commenter stressed that Native Americans continue to face unemployment levels double that of the overall population and the NACTEP is focused on changing this.

*Discussion:* We appreciate the support of the commenters and agree that extending the current NACTEP grant period will allow current NACTEP grantees to continue to work toward accomplishing the goals and objectives stated in their 2013 NACTEP grant applications, including providing specialized CTE training to Native American students. We agree that it is important that there not be a lapse in programming provided by NACTEP grantees to CTE students.

*Changes:* None.

**Waiver of Delayed Effective Date**

The Administrative Procedure Act (APA) requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). The Secretary has determined that a delayed effective date is unnecessary and contrary to the public interest. It is unnecessary because all of the 85 public comments we received in response to the proposed waiver and extension of project period supported our proposal, and we have not made any substantive changes to the proposal. It is contrary to the public interest because we would not be able to make timely continuation awards to the 30 current grantees with the delay. Therefore, the Secretary waives the APA's delayed effective date provision for good cause.

**Regulatory Flexibility Act Certification**

The Secretary certifies that the final waiver and extension and the activities required to support additional months of funding would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by this final waiver and extension are the 30 currently funded NACTEP grantees and any other potential applicants. The extension of an existing project imposes minimal compliance costs, and the activities required to support the additional years of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

**Paperwork Reduction Act of 1995**

This notice of final waiver and extension contains information collection requirements approved by the Office of Management and Budget (OMB) under control number 1830–0542; this final waiver and extension does not cause any changes to the approved OMB information collection.

**Intergovernmental Review**

The NACTEP is not subject to Executive Order 12372 and regulations in 34 CFR part 79.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on

request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 27, 2017.

**Kim R. Ford,**

*Deputy Assistant Secretary for Career, Technical, and Adult Education, delegated the duties of the Assistant Secretary for Career, Technical, and Adult Education.*

[FR Doc. 2017–16182 Filed 7–31–17; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2017–ICCD–0057]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Loan Discharge Applications (DL/FFEL/Perkins)

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before August 31, 2017.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0057. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Loan Discharge Applications (DL/FFEL/Perkins).

*OMB Control Number:* 1845–0058.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Individuals or Households.

*Total Estimated Number of Annual Responses:* 30,051.

*Total Estimated Number of Annual Burden Hours:* 15,027.

*Abstract:* The Department of Education is requesting an extension of the currently approved information collection. This information collection is necessary for loan holders in the FFEL, Direct Loan, and Perkins Loan programs to obtain the information that is needed to determine whether a borrower qualifies for a closed school or false certification loan discharge. The loan discharge regulations in all three loan programs require borrowers who seek discharge of their FFEL, Direct Loan, or Perkins Loan program loans to request a loan discharge and provide their loan holders with certain information in writing. This information collection includes the following five loan discharge applications that are used to obtain the information needed to determine whether a borrower qualifies for a closed school discharge, false certification—ATB, false certification—disqualifying status, false certification—unauthorized signature/unauthorized payment or unpaid refund loan discharges.

Dated: July 27, 2017.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017–16147 Filed 7–31–17; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP17–474–000]**

### Kinder Morgan Border Pipeline LLC; Notice of Application

Take notice that on July 14, 2017, Kinder Morgan Border Pipeline (Kinder Morgan), 1001 Louisiana Street, Suite 1000, Houston, Texas 77002, filed an application in Docket No. CP17–474–000 under section 3 of the Natural Gas Act (NGA), and Part 153 of the Commission's regulations for an amendment to the Presidential Permit and authorization to Kinder Morgan by the Commission under Docket No. CP99–564–000. Kinder Morgan is seeking authorization to amend its current NGA section 3 authorization to increase the authorized design capacity of its border facilities from approximately 300 million cubic feet per day (MMcf/d) to 450 MMcf/d, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number

field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Melinda Winn Assistant General Counsel, Kinder Morgan Border Pipeline LLC, 1001 Louisiana Street, Suite 1000, Houston, TX 77002, (713) 369–8780, or by email at *Melinda_Winn@kindermorgan.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* August 15, 2017.

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16070 Filed 7–31–17; 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 rate filings:

*Docket Numbers:* ER11–1881–008; ER11–1882–008; ER11–1883–008; ER11–1885–008; ER11–1886–008; ER11–1887–008; ER11–1889–008; ER11–1890–008; ER11–1892–008; ER11–1893–008; ER11–1894–008.

*Applicants:* Burley Butte Wind Park, LLC, Golden Valley Wind Park, LLC, Milner Dam Wind Park, LLC, Oregon Trail Wind Park, LLC, Pilgrim Stage Station Wind Park, LLC, Thousand Springs Wind Park, LLC, Tuana Gulch Wind Park, LLC, Camp Reed Wind Park, LLC, Payne's Ferry Wind Park, LLC, Salmon Falls Wind Park, LLC, Yahoo Creek Wind Park, LLC.

*Description:* Notice of Change in Status of Burley Butte Wind Park, LLC, et al.

*Filed Date:* 7/24/17.

*Accession Number:* 20170724–5160.

*Comments Due:* 5 p.m. ET 8/14/17.

*Docket Numbers:* ER17–2140–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* § 205(d) Rate Filing: Revisions to the Unexecuted LGIA with Regents of the UC (SA 344) to be effective 7/27/2017.

*Filed Date:* 7/25/17.

*Accession Number:* 20170725–5037.

*Comments Due:* 5 p.m. ET 8/15/17.

*Docket Numbers:* ER17–2141–000.

*Applicants:* Great Valley Solar 1, LLC.

*Description:* Baseline eTariff Filing: Great Valley Solar 1, LLC Petition for Order Accepting Market-based Rate Tariff to be effective 10/1/2017.

*Filed Date:* 7/25/17.

*Accession Number:* 20170725–5049.

*Comments Due:* 5 p.m. ET 8/15/17.

*Docket Numbers:* ER17–2142–000.

*Applicants:* Great Valley Solar 2, LLC.

*Description:* Baseline eTariff Filing: Great Valley Solar 2, LLC Petition for Order Accepting Market-based Rate Tariff to be effective 10/1/2017.

*Filed Date:* 7/25/17.

*Accession Number:* 20170725–5054.

*Comments Due:* 5 p.m. ET 8/15/17.

*Docket Numbers:* ER17–2143–000.

*Applicants:* Cayuga Operating Company, LLC.

*Description:* § 205(d) Rate Filing: Tariff Revisions re 819 AS etc to be effective 7/26/2017.

*Filed Date:* 7/25/17.

*Accession Number:* 20170725–5075.

*Comments Due:* 5 p.m. ET 8/15/17.

*Docket Numbers:* ER17–2144–000.
*Applicants:* Somerset Operating Company, LLC.
*Description:* § 205(d) Rate Filing: Tariff Revision re 819 AS etc to be effective 7/26/2017.
*Filed Date:* 7/25/17.
*Accession Number:* 20170725–5079.
*Comments Due:* 5 p.m. ET 8/15/17.

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: July 25, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017–16119 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL17–82–000]**

### Independent Market Monitor for PJM v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on July 20, 2017, pursuant to section 206 of the Rules and Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2016), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) requesting that the Commission direct Respondent to rescind its determination to grant a Competitive Entry Exemption pursuant Section 5.14(h)(7) of Attachment DD to the PJM Open Access Transmission Tariff, as more fully explained in the complaint.

The Complainant states that copies of the complaint were served on representatives of the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on August 21, 2017.

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16071 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Membership of Performance Review Board for Senior Executives (PRB)

The Federal Energy Regulatory Commission hereby provides notice of the membership of its Performance Review Board (PRB) for the Commission's Senior Executive Service (SES) members. The function of this board is to make recommendations relating to the performance of senior executives in the Commission. This action is undertaken in accordance with Title 5, U.S.C. Section 4314(c)(4).

The Commission's PRB will remove the following members:

Larry D. Gasteiger
Ann F. Miles
Max J. Minzner
Jamie L. Simler

The Commission's PRB will add the following members:

Anna V. Cochrane
David L. Morenoff
Terry L. Turpin
Steven T. Wellner

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16077 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. EL14–9–000; QF11–424–002; Docket No. L14–18–000]**

### Gregory and Beverly Swecker v. Midland Power Cooperative; Gregory Swecker and Beverly Swecker v. Midland Power Cooperative and Central Iowa Power Cooperative; Notice of Filing

Take notice that on July 17, 2017, Gregory and Beverly Swecker submitted a Notice of Additional Authorities, requesting that the Commission take action under 18 CFR 292.302(c)(2), with regard to Midland Power Cooperative and Central Iowa Power Cooperative.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on August 7, 2017.

Dated: July 26, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16163 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CD17–16–000]**

### Wallowa Resources Community Solutions Inc.; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On July 20, 2017, Wallowa Resources Community Solutions Inc. filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Wallowa Lake County Service District Hydro Station Project would have an installed capacity of 20 kilowatts (kW), and would be located along the existing State Park Spring municipal water pipeline located near the town of Joseph, Wallowa County, Oregon.

*Applicant Contact:* Kyle Petrocine, 401 NE 1st Street, Suite A, Enterprise, OR 97828, Phone No. (541) 398–0018.

*FERC Contact:* Christopher Chaney, Phone No. (202) 502–6778, email: *Christopher.Chaney@ferc.gov.*

*Qualifying Conduit Hydropower Facility Description:* The proposed project would consist of: (1) A new 20-kW impulse turbine and induction generator; (2) a new, approximately 13-foot by 14-foot powerhouse; and (3) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 149,000 kilowatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

| Statutory provision | Description | Satisfies (Y/N) |
|---|---|---|
| FPA 30(a)(3)(A), as amended by HREA | The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. | Y |
| FPA 30(a)(3)(C)(i), as amended by HREA | The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit. | Y |
| FPA 30(a)(3)(C)(ii), as amended by HREA | The facility has an installed capacity that does not exceed 5 megawatts | Y |
| FPA 30(a)(3)(C)(iii), as amended by HREA | On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA. | Y |

*Preliminary Determination:* The proposed addition of the hydroelectric project along the municipal water pipeline will not alter its primary purpose. Therefore, based upon the above information and criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

*Comments and Motions to Intervene:* Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY or MOTION TO INTERVENE, as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

*Locations of Notice of Intent:* Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp*

[1] 18 CFR 385.2001–2005 (2016).

using the ''eLibrary'' link. Enter the docket number (*i.e.,* CD17–16) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnline Support@ferc.gov.* For TTY, call (202) 502–8659.

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16080 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. OR17–18–000]**

### Medallion Pipeline Company, LLC; Notice of Petition For Declaratory Order

Take notice that on July 21, 2017, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2016), Medallion Pipeline Company, LLC (Medallion), filed a petition for a declaratory order seeking approval of the overall tariff and rate structure, and open-season procedures for Medallion's proposed Wolfcamp Connector expansion and Howard Lateral expansion to transport crude oil from Midland Basin in West Texas to Colorado City Hub, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern time on August 21, 2017.

Dated: July 26, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16164 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC17–11–000]**

### Commission Information Collection Activities (FERC–549b); Comment Request

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection [FERC–549B (Gas Pipeline Rates: Capacity Reports and Index of Customers)] to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (82 FR 18635, 4/20/2017) requesting public comments. The Commission received one comment on the FERC–549B and is making this notation in its submittal to OMB. The sole comment, however, does not pertain to this information collection and is immaterial to the renewal effort for the FERC–549B.[1]

**DATES:** Comments on the collection of information are due by August 31, 2017.

**ADDRESSES:** Comments filed with OMB, identified by the OMB Control No. 1902–0169, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710.

A copy of the comments should also be sent to the Commission, in Docket No. IC17–11–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC–549B (Gas Pipeline Rates: Capacity Reports and Index of Customers).

*OMB Control No.:* 1902–0169.

*Type of Request:* Three-year extension of the FERC–549B information collection requirements with no changes to the current reporting requirements.

*Abstract:* The information collected under the requirements of FERC–549B includes both the Index of Customers (IOC) report under Commission regulations at 18 Code of Federal Regulations (CFR) 284.13(c) and three capacity reporting requirements. One of these is in Commission regulations at 18 CFR 284.13(b) and requires reports on firm and interruptible services. The second is at 18 CFR 284.13(d)(1) and requires pipelines make information on capacity and flow information available on their Internet Web sites. The third is at 18 CFR 284.13(d)(2) and requires an annual filing of peak day capacity.

**Capacity Reports Under 284.13(b) and 284.13(d)(1)**

On April 4, 1992, in Order No. 636 (RM91–11–000), the Commission

[1] The comment can be found here: *https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14615693.*

established a capacity release mechanism under which shippers could release firm transportation and storage capacity on either a short- or long-term basis to other shippers wanting to obtain capacity. Pipelines posted available firm and interruptible capacity information on their electronic bulletin boards (EBBs) to inform potential shippers.

On August 3, 1992, in Order No. 636–A (RM91–11–002), the Commission determined through staff audits, that the efficiency of the capacity release mechanism could be enhanced by standardizing the content and format of capacity release information and the methods by which shippers accessed this information, which pipelines posted to their EBBs.

On March 29, 1995, through Order 577 (RM95–5–000), the Commission amended § 284.243(h) of its regulations to allow shippers the ability to release capacity without having to comply with the Commission's advance posting and bidding requirements. On February 9, 2000, in Order No. 637 (RM98–10–000), to create greater substitution between different forms of capacity and to enhance competition across the pipeline grid, the Commission revised its capacity release regulations regarding scheduling, segmentation and flexible point rights, penalties, and reporting requirements. This resulted in more reliable capacity information availability and price data that shippers needed to make informed decisions in a competitive market as well as to improve shipper's and the Commission's ability to monitor the market for potential abuses.

**Peak Day Annual Capacity Report Under 284.13(d)(2)**

18 CFR 284.13(d)(2) requires an annual peak day capacity report of all interstate pipelines, including natural gas storage only companies. This report is generally a short report showing the peak day design capacity or the actual peak day capacity achieved, with a short explanation, if needed. The regulation states:

An interstate pipeline must make an annual filing by March 1 of each year showing the estimated peak day capacity of the pipeline's system, and the estimated storage capacity and maximum daily delivery capability of storage facilities under reasonably representative operating assumptions and the respective assignments of that capacity to the various firm services provided by the pipeline.

This annual report/filing is publicly available, while other more specific interstate pipeline and storage capacity details are filed as CEII, such as the Annual System Flow Diagram (FERC–567) which are not publicly available.

**Index of Customers Under 284.13(c)**

In Order 581, issued September 28, 1995 (Docket No. RM95–4–000), the Commission established the IOC quarterly information requirement. This Order required the reporting of five data elements in the IOC filing: The customer name, the rate schedule under which service is rendered, the contract effective date, the contract termination date, and the maximum daily contract quantity, for either transportation or storage service, as appropriate.

In a notice issued separate from Order 581 in Docket No. RM95–4–000, issued February 29, 1996, the Commission, through technical conferences with industry, determined that the IOC data reported should be in tab delimited format on diskette and in a form as proscribed in Appendix A of the rulemaking. In a departure from past practice, a three-digit code, instead of a six-digit code, was established to identify the respondent.

In Order 637, issued February 9, 2000 (Docket Nos. RM98–10–000 and RM98–12–000), the Commission required the filing of: The receipt and delivery points held under contract and the zones or segments in which the capacity is held, the common transaction point codes, the contract number, the shipper identification number, an indication whether the contract includes negotiated rates, the names of any agents or asset managers that control capacity in a pipeline rate zone, and any affiliate relationship between the pipeline and the holder of capacity. It was stated in the Order that the changes to the Commission's reporting requirements would enhance the reliability of information about capacity availability and price that shippers need to make informed decisions in a competitive market as well as improve shippers' and the Commission's ability to monitor marketplace behavior to detect, and remedy anti-competitive behavior. Order 637 required a pipeline post the information quarterly on its Internet Web sites instead of on the outdated EBBs.

*Type of Respondents:* Respondents for this data collection are interstate pipelines subject to FERC regulation under the Natural Gas Act and those entities defined as Hinshaw Pipelines under the Natural Gas Policy Act.

*Estimate of Annual Burden:*[2] The Commission estimates the annual public reporting burden for the information collection as:

FERC–549B (GAS PIPELINE RATES: CAPACITY REPORTS AND INDEX OF CUSTOMERS)

| | Number of respondents | Annual number of esponses per espondent | Total number of responses | Average burden & cost per response ($)[3] | Total annual burden hours & total annual cost ($) | Cost per respondent ($) |
|---|---|---|---|---|---|---|
| | (1) | (2) | (1) * (2) = (3) | (4) | (3) * (4) = (5) | (5) ÷ (1) |
| Capacity Reports under 284.13(b) & 284.13(d)(1) | 185 | 6 | 1,110 | $145<br>11,093 | $160,950<br>12,313,230 | $66,558 |
| 93049344Peak Day Annual Capacity Report under 284.13(d)(2) | 185 | 1 | 185 | 10<br>765 | 1,850<br>141,525 | 765 |
| Index of Customers under 284.13(c) | 185 | 4 | 740 | 3<br>230 | 2,220<br>170,200 | 920 |

[2] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[3] The estimates for cost per response are derived using the following formula: 2017 Average Burden Hours per Response * $76.50 per Hour = Average Cost per Response. The hourly cost figure of $76.50 is the average FERC employee wage plus benefits. We assume that respondents earn at a similar rate.

FERC–549B (GAS PIPELINE RATES: CAPACITY REPORTS AND INDEX OF CUSTOMERS)—Continued

| | Number of respondents (1) | Annual number of esponses per espondent (2) | Total number of responses (1) * (2) = (3) | Average burden & cost per response ($) [3] (4) | Total annual burden hours & total annual cost ($) (3) * (4) = (5) | Cost per respondent ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| Total | | | | 2,035 | 165,020<br>12,624,955 | 68,243 |

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16076 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14808–000]**

### Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 19, 2016, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Panther Pumped Storage Hydroelectric Project to be located near the town of Simpson in Lackawanna and Wayne Counties, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 175 acres and a storage capacity of 2,625 acre-feet at a surface elevation of approximately 1,960 feet above mean sea level (msl) created through construction of new roller-compacted concrete or rock-filled dams and/or dikes; (2) excavating a new lower reservoir with a surface area of 180 acres and a total storage capacity of 4,500 acre-feet at a surface elevation of 1,325 feet msl; (3) a new 6,045-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (5) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 172 megawatts; (6) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (7) appurtenant facilities. Possible initial fill water and make-up water would come from the Lackawanna River. The proposed project would have an annual generation of 502,717 megawatt-hours.

*Applicant Contact:* Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: (267) 254–6107.

*FERC Contact:* Tim Looney; phone: (202) 502–6096.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.[1] Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14808–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14808) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16078 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

[1] The Commission is issuing a second notice for this project because some municipalities may not have been notified by the first notice issued on March 28, 2017.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding.

Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

| Docket No. | File date | Presenter or requester |
|---|---|---|
| Prohibited: | | |
| 1. CP15–554–000 | 7–6–2017 | Mass Mailing.[1] |
| 2. CP15–554–000 | 7–10–2017 | Mass Mailing.[2] |
| 3. CP15–554–000 | 7–12–2017 | Mass Mailing.[3] |
| 4. CP15–554–000 | 7–13–2017 | James Rexrode. |
| 5. CP15–554–000 | 7–14–2017 | Mass Mailing.[4] |
| 6. CP15–554–000 | 7–17–2017 | Mass Mailing.[5] |
| 7. CP15–554–000 | 7–19–2017 | Mass Mailing.[6] |
| 8. CP15–554–000 | 7–21–2017 | EE Knapp. |
| Exempt: | | |
| 1. CP15–93–000 | 7–13–2017 | U.S. Senators.[7] |
| 2. CP15–554–000 | 7–14–2017 | U.S. House Representative Bob Goodlatte. |
| 3. CP16–10–000 | 7–18–2017 | House Representative Donald S. Beyer Jr. |
| 4. P–1494–000 | 7–19–2017 | Oklahoma Department of Environmental Quality. |
| 5. CP17–40–000 | 7–24–2017 | FERC Staff.[8] |

[1] Eight letters have been sent to FERC Commissioners and staff under this docket number.
[2] Three letters have been sent to FERC Commissioners and staff under this docket number.
[3] Six letters have been sent to FERC Commissioners and staff under this docket number.
[4] Four letters have been sent to FERC Commissioners and staff under this docket number.
[5] Five letters have been sent to FERC Commissioners and staff under this docket number.
[6] Two letters have been sent to FERC Commissioners and staff under this docket number.
[7] Senators Debbie Stabenow and Gary C. Peters.
[8] Conference Call Record for call on June 30, 2017 with Kristen Lundh of United States Fish and Wildlife Services.

Dated: July 25, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017–16079 Filed 7–31–17; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[9931–91–OEI]**

## Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Wisconsin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of the State of Wisconsin's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

**DATES:** EPA approves the authorized program revision for the State of Wisconsin's National Primary Drinking Water Regulations Implementation program as of August 31, 2017, if no timely request for a public hearing is received and accepted by the Agency. EPA approves the State of Wisconsin's other authorized program revision(s) as of, August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application

and will use electronic document receiving systems that meet the applicable subpart D requirements.

On February 22, 2016, the Wisconsin Department of Natural Resources (WDNR) submitted a revised application titled Electronic Receiving System for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed WDNR's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the revised application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Wisconsin's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 50–52, 61–63, 65, 70, 122, 125, 141, 144, 146, 240–270, 272–280, 403–471, 501, and 503 is being published in the **Federal Register:**

Part 52—Approval and Promulgation of Implementation Plans;
Part 62—Approval and Promulgation of State Plans for Designated Facilities and Pollutants;
Part 63—National Emission Standards for Hazardous Air Pollutants for Source Categories;
Part 70—State Operating Permit Programs;
Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System;
Part 142—National Primary Drinking Water Regulations Implementation;
Part 145—State Underground Injection Control Programs;
Part 239—Requirements for State Permit Program Determination of Adequacy;
Part 271—Requirements for Authorization of State Hazardous: Waste Program;
Part 403—General Pretreatment Regulations for Existing and New Sources of Pollution; and
Part 501—State Sludge Management Program Regulations.

WDNR was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Wisconsin's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information: (1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Wisconsin's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

**Matthew Leopard,**

*Director, Office of Information Management.*

[FR Doc. 2017–15544 Filed 7–31–17; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–XXXX]**

## 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 October 2, 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–XXXX.

*Title:* Procedures for Commission Review of State Opt-Out Request from the FirstNet Radio Access Network.

*Form Number:* N/A.

*Type of Review:* New collection.

*Respondents:* State, Local or Tribal Government.

*Number of Respondents and Responses:* 55 respondents: 110 responses.

*Estimated Time per Response:* 0.25 hours for the initial notification.

*Frequency of Response:* One-time reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for requiring licensees to submit this information enter into the written agreements is contained in the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 §§ 6001–6303, 6413 (codified at 47 U.S.C. 1401–1443, 1457).

*Total Annual Burden:* 26,414 hours.

*Total Annual Cost:* No cost.

*Privacy Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* Alternative state plans are very likely to contain proprietary information as well as information whose disclosure could compromise network security. Parties may therefore seek confidential treatment of any filing under our Part 0 rules, including the use of a protective order process to allow other those granted party status to the restricted proceeding access to the information on a confidential basis.

*Needs and Uses:* This collection will be submitted as a new collection after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance. The purpose of requiring this collection is to comply with Middle Class Tax Relief and Job Creation Act of 2012. The Middle Class Tax Relief and Job Creation Act of 2012 provides that ''the Governor shall choose whether to participate in the deployment of the nationwide, interoperable broadband network as proposed by [FirstNet,] or conduct its own deployment of a radio access network in such State.'' If a Governor chooses not to participate in the NPSBN, Section 6302(e)(3)(A) of the Act requires the Governor to ''notify [FirstNet], the NTIA, and the Commission of such decision.'' The Act also states that an opt-out state ''shall submit'' to the Commission an ''alternative plan'' for ''the construction, maintenance, operation, and improvements'' of the RAN within the state. Section 3(C)(ii) of the Act mandates that ''upon submission of this plan, the Commission shall approve or disapprove of the plan.''

We require that either the Governor or the Governor's his duly authorized designee may provide notification of the Governor's decision. The opt-out notification to the Commission must also include a certification that the state is providing simultaneous notice of its opt-out decision to both to NTIA and FirstNet. To facilitate the electronic filing of opt-out notifications, we will establish the email address *opt-out@fcc.gov* as the address for this purpose.

Each opt-out state will have 60 days from the completion of its Request For Proposal (240 days from the date of its opt-out notification to the Commission) to file an alternative state plan via the secure email address *opt-out@fcc.gov* or via certified mail to the Secretary's office.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2017–16072 Filed 7–31–17; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–1029]**

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**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 October 2, 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 No.:* 3060–1029.

*Title:* Data Network Identification Code (DNIC).

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 5 respondents; 5 responses.

*Estimated Time per Response:* .25 hours.

*Frequency of Response:* On occasion reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collections is contained in 47 U.S.C. 151, 154(i)–(j), 201–205, 211, 214, 219, 220, 303(r), 309 and 403.

*Total Annual Burden:* 1 hour.

*Annual Cost Burden:* No cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* In general, there is no need for confidentiality with this collection of information.

*Needs and Uses:* This collection will be submitted as an extension (no change in reporting or recordkeeping requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

A Data Network Identification Code (DNIC) is a unique, four-digit number designed to provide discrete identification of individual public data networks. The DNIC is intended to identify and permit automated switching of data traffic to particular networks. The FCC grants the DNICs to operators of public data networks on an international protocol. The operators of public data networks file an application for a DNIC on the Internet-based, International Bureau Filing System (IBFS). The DNIC is obtained free of charge on a one-time only basis unless there is a change in ownership or the owner chooses to relinquish the code to the FCC. The Commission's lack of an assignment of DNICs to operators of public data networks would result in technical problems that prevent the identification and automated switching of data traffic to particular networks.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2017–16074 Filed 7–31–17; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–XXXX]**

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before August 31, 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 listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

*OMB Control Number:* 3060–XXXX.

*Title:* Connect America Phase II Auction Waiver Post-Selection Review.

*Form Number:* FCC Form 5625.

*Type of Review:* New collection.

*Respondents:* Business or other for-profit.

*Number of Respondents and Responses:* 50 respondents; 150 responses.

*Estimated Time per Response:* 2 hours–4 hours.

*Frequency of Response:* Annual reporting requirements, one-time reporting requirement and recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 214, and 254.

*Total Annual Burden:* 500 hours.

*Total Annual Cost:* No Cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There are no assurances of confidentiality. However, the Commission intends to keep the information private to the extent permitted by law. Also, respondents may request materials or information submitted to the Commission believed confidential to be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

*Needs and Uses:* The Commission is requesting approval for this new information collection. On January 26, 2017, the Commission released *Connect America Fund; ETC Annual Reports and Certifications,* WC Docket Nos. 10–90 and 14–58, Order, FCC 17–2 (*New York*

*Auction Order*), which granted New York waiver of the Phase II auction program rules, subject to certain conditions. Specifically, the Commission made an amount up to the amount of Connect America Phase II model-based support that Verizon declined in New York—$170.4 million—available to applicants selected in New York's New NY Broadband Program in accordance with the framework adopted in the *New York Auction Order.*

This information collection addresses the eligibility requirements that New York winning bidders must meet before the Wireline Competition Bureau (Bureau) will authorize them to receive Connect America Phase II support. For each New York winning bid that includes Connect America-eligible areas, the Commission will authorize Connect America support up to the total reserve prices of all of the Connect America Phase II auction eligible census blocks that are included in the bid, provided that New York has committed, at a minimum, the same dollar amount of New York support to the Connect America-eligible areas in that bid. Before Connect America Phase II support is authorized, the Bureau will closely review the winning bidders to ensure that they have met the eligibility requirements adopted by the Commission and that they are technically and financially qualified to meet the terms and conditions of Connect America support. To aid in collecting this information regarding New York State's winning bidders and the applicants' ability to meet the terms and conditions of Connect America Phase II support in a uniform fashion, the Commission has created the proposed new FCC Form 5625, which parties should use in their submissions with the FCC.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2017–16073 Filed 7–31–17; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### FDIC Advisory Committee on Community Banking; Notice of Charter Renewal

**AGENCY:** Federal Deposit Insurance Corporation (''FDIC'').

**ACTION:** Notice of renewal of the FDIC Advisory Committee on Community Banking.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (''FACA''), and after consultation with the General Services Administration, the Chairman of the Board of Directors of the FDIC has determined that renewal of the FDIC Advisory Committee on Community Banking (''the Committee'') is in the public interest in connection with the performance of duties imposed upon the FDIC by law. The Committee has been a successful undertaking by the FDIC and has provided valuable feedback to the agency on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043, *Regs@fdic.gov.*

**SUPPLEMENTARY INFORMATION:** The Committee will continue to review various issues that may include, but not be limited to, the latest examination policies and procedures, credit and lending practices, deposit insurance assessments, insurance coverage, and regulatory compliance matters, as well as any obstacles to the continued growth and ability of community banks to extend financial services in their respective local markets. The structure and responsibilities of the Committee are unchanged from when it was originally established in July 2009. The Committee will continue to operate in accordance with the provisions of the FACA.

Dated: July 27, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Committee Management Officer.*

[FR Doc. 2017–16137 Filed 7–31–17; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10471—Frontier Bank LaGrange, Georgia

*Notice is hereby given* that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Frontier Bank, LaGrange, Georgia (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Frontier Bank on March 8, 2013. 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: July 26, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017–16101 Filed 7–31–17; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL MARITIME COMMISSION

**[Docket No. 17–07]**

### Port Elizabeth Terminal & Warehouse Corp. v. The Port Authority of New York and New Jersey; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by Port Elizabeth Terminal & Warehouse Corp., hereinafter ''Complainant,'' against The Port Authority of New York and New Jersey, hereinafter ''Respondent.'' Complainant states it is ''a corporation organized under the laws of the State of New Jersey'' and, as a marine terminal operator, ''it provides warehousing and other terminal services and facilities to other marine terminal operators and common carriers handling thousands of shipping containers that enter or depart through the Port of New York and New Jersey.'' Complainant alleges that Respondent is ''a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States, existing under the laws of the States of New Jersey and New York . . .'' and ''is a marine terminal operator . . . and controls virtually all of the common carrier served terminal facilities located within the Port of New York and New Jersey.''

Complainant alleges that it has ''over these past forty-two (42) years, entered into numerous Leases, agreements, and supplements to agreements [with the Respondent] based upon the parties' needs and to advance the parties' mutual commercial and business interests.'' Complainant further alleges that as a result of Respondent's requests to Complainant to vacate warehouse space, and undue favoring of another marine terminal operator, Respondent has violated the Shipping Act, 46 U.S.C. 41106(2) and (3) and 41102(c), because:

• ''[Respondent] has given undue or unreasonable preference or advantage to other Marine Terminal Operators and has imposed an undue or unreasonable prejudice or disadvantage upon [the Complainant]''.

• ''[Respondent] has unreasonably refused to deal and negotiate with [the Complainant]''.

• ''[Respondent] has failed to 'establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property''.

Complainant seeks ''an order be made commanding [Respondent] to cease and desist form the aforementioned violations of the Shipping Act,'' reparations, and other relief. The full text of the complaint can be found in the Commission's Electronic Reading Room at *www.fmc.gov/17-07/.*

This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by July 26, 2018, and the final decision of the Commission shall be issued by February 11, 2019.

**Rachel E. Dickon,**

*Assistant Secretary.*

[FR Doc. 2017–16166 Filed 7–31–17; 8:45 am]

**BILLING CODE 6731–AA–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 August 16, 2017.

*A. Federal Reserve Bank of Richmond* (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *Basswood Capital Management, LLC, New York, New York; Basswood Partners, LLC, New York, New York; Basswood Opportunity Partners, LP, New York, New York; Basswood Opportunity Fund, Inc., New York, New York; Basswood Financial Fund, LP, New York, New York; Basswood Financial Fund, Inc., New York, New York; Basswood Financial Long Only Fund, LP, New York, New York; MGS Partners, LLC, New York, New York; and Bennett Lindenbaum and Matthew Lindenbaum, as Managing Members of Basswood Partners, LLC, and of Basswood Capital Management, LLC; all of New York, New York;* to acquire voting shares of Delmarva Bancshares, Inc., Cambridge, Maryland, and thereby indirectly acquire 1880 Bank, Cambridge, Maryland.

*B. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *GGC, LLP,* Council Bluffs, Iowa; to acquire 10 percent or more of the voting shares of TS Contrarian Bancshares, Inc., Treynor, Iowa and thereby indirectly acquire voting shares of Bank of Tioga, Tioga, North Dakota.

Board of Governors of the Federal Reserve System, July 27, 2017.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2017–16167 Filed 7–31–17; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Sunshine Act Meeting

**DATE AND TIME:** July 31, 2017. 1:00 p.m. 1700 K St NW., Washington, DC 20006

**AGENDA:** Federal Retirement Thrift Investment Board Member Meeting.

**STATUS:** Closed to the public.

**MATTER TO BE CONSIDERED:** Information covered under 5 U.S.C. 552b(c)(6) and (c)(9)(B).

**CONTACT PERSON FOR MORE INFORMATION:** Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: July 28, 2017.

**Megan Grumbine,**

*General Counsel, Federal Retirement Thrift Investment Board.*

[FR Doc. 2017–16279 Filed 7–28–17; 4:15 pm]

**BILLING CODE 6760–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers CMS–10137 and CMS–10237]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by October 2, 2017.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options''

to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** William Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS–10137 Solicitation for Applications for Medicare Prescription Drug Plan 2018 Contracts**

**CMS–10237 Applications for Part C Medicare Advantage, 1876 Cost Plans, and Employer Group Waiver Plans To Provide Part C Benefits**

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. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

**Information Collection**

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2019 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug (PD) plans or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion application. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits and Not-for-profit institutions); *Number of Respondents:* 243; *Total Annual Responses:* 243; *Total Annual Hours:* 2,240. (For policy questions regarding this collection contact Arianne Spaccarelli at 410–786–5715.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Applications for Part C Medicare Advantage, 1876 Cost Plans, and Employer Group Waiver Plans to Provide Part C Benefits; *Use:* This information collection includes the process for organizations wishing to provide healthcare services under MA and/or MA–PD plans must complete an application annually, file a bid, and receive final approval from CMS. The application process has two options for applicants that include: request for new MA product or request for expanding the service area of an existing product. This collection process is the only mechanism for MA and/or MA–PD organizations to complete the required application process. CMS utilizes the application process as the means to review, assess and determine if applicants are compliant with the current requirements for participation in the Medicare Advantage program and to make a decision related to contract award. *Form Number:* CMS–10237 (OMB control number: 0938–0935); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits and Not-for-profit institutions); *Number of Respondents:* 380; *Total Annual Responses:* 182; *Total Annual Hours:* 6,270. (For policy questions regarding this collection contact Stacy Davis at 410–786–7813.)

Dated: July 27, 2017.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2017–16152 Filed 7–31–17; 8:45 am]

**BILLING CODE 4120–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

*Proposed Projects:*

*Title:* Request for Assistance for Child Victims of Human Trafficking.

*OMB No.:* 0970–0362.

*Description:* The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Public Law 110–457, directs the U.S. Secretary of Health and Human Service (HHS), upon receipt of credible information that a non-U.S. citizen, non-Lawful Permanent Resident (alien) child may have been subjected to a severe form of trafficking in persons and is seeking Federal assistance available to victims of trafficking, to promptly determine if the child is eligible for interim assistance. The law further directs the Secretary of HHS to determine if a child receiving interim assistance is eligible for assistance as a victim of a severe form of trafficking in persons after consultation with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form of trafficking.

In developing procedures for collecting the necessary information from potential child victims of trafficking, their case managers, attorneys, or other representatives to allow HHS to grant interim eligibility, HHS devised a form. HHS has determined that the use of a standard form to collect information is the best way to ensure requestors are notified of their option to request assistance for child victims of trafficking and to make prompt and consistent determinations about the child's eligibility for assistance.

Specifically, the form asks the requestor for his or her identifying information, information on the child, and information describing the type of

trafficking and circumstances surrounding the situation. The form also asks the requestor to verify the information contained in the form because the information could be the basis for a determination of an alien child's eligibility for federally funded benefits. Finally, the form takes into consideration the need to compile information regarding a child's circumstances and experiences in a non-directive, child-friendly way, and assists the potential requestor in assessing whether the child may have been subjected to trafficking in persons.

The information provided through the completion of a Request for Assistance for Child Victims of Human Trafficking form will enable HHS to make prompt determinations regarding the eligibility of an alien child for interim assistance, inform HHS' determination regarding the child's eligibility for assistance as a victim of a severe form of trafficking in persons, facilitate the required consultation process, and enable HHS to assess and address potential child protection issues.

*Respondents:* Representatives of governmental and nongovernmental entities providing social, legal, or protective services to alien persons under the age of 18 (children) in the United States who may have been subjected to severe forms of trafficking in persons.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Request for Assistance for Child Victims of Human Trafficking | 80 | 1 | 1 | 80 |
| Estimated Total Annual Burden Hours | | | | 80 |

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2017–16105 Filed 7–31–17; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (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 of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity PAR.

*Date:* August 29, 2017.

*Time:* 1:30 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call)

*Contact Person:* Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 26, 2017.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–16117 Filed 7–31–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Fogarty International Center Advisory Board.

*Date:* September 12, 2017.

*Closed:* September 12, 2017, 8:00 a.m. to 9:00 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Lawton Chiles International House (Stone House), Building 16, Conference Room, 16 Center Drive, Bethesda, MD 20892.

*Open:* September 12, 2017, 9:00 a.m. to 3:00 p.m.

*Agenda:* Update and discussion of current and planned FIC activities.

*Place:* National Institutes of Health, Lawton Chile International House (Stone House), Building 16, Conference Room, 16 Center Drive, Bethesda, MD 20892.

*Contact Person:* Kristen Weymouth, Executive Secretary, Fogarty International Center, National Institutes of Health, 31 Center Drive, Room B2C02, Bethesda, MD 20892, (301) 496–1415, *weymouthk@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.fic.nih.gov/About/Advisory/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: July 26, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–16113 Filed 7–31–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council on Minority Health and Health Disparities.

*Date:* September 7–8, 2017.

*Closed:* September 7, 2017, 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, 31 Center Drive, Building 31, 6th Floor, Conference Room 6, Bethesda, MD 20892.

*Open:* September 8, 2017, 8:00 a.m. to 3:00 p.m.

*Agenda:* The agenda will include opening remarks, administrative matters, Director's report, NIH Health Disparities update, and other business of the Council.

*Place:* National Institutes of Health, 31 Center Drive, Building 31, 6th Floor, Conference Room 6, Bethesda, MD 20892.

*Contact Person:* Dr. Joyce A. Hunter, Deputy Director, NIMHD, National Institutes of Health, National Institute on Minority Health and Heath Disparities, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 402–1366, *hunterj@nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles, will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: July 26, 2017.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–16118 Filed 7–31–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIDDK.

*Date:* September 7, 2017.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 10, Room 9S233, Solarium

Conference Room, 10 Center Drive, Bethesda, MD 20892.

*Contact Person:* Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 26, 2017.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–16116 Filed 7–31–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (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 Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Implementation Cooperative Agreement (U01).

*Date:* August 24, 2017.

*Time:* 1:00 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call)

*Contact Person:* Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Room 3F30B, Rockville, MD 20852, 240–669–5029, *battlesja@mail.nih.gov.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; AIDSRRC Independent SEP.

*Date:* August 25, 2017.

*Time:* 3:30 p.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call)

*Contact Person:* Peter R. Jackson, Ph.D., Chief, AIDS Research Review Branch Scientific Review Program, Division of Extramural Activities, Room # 3G20, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5049, *pjackson@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 26, 2017.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–16115 Filed 7–31–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Advisory Council on Aging.

*Date:* September 26–27, 2017.

*Closed:* September 26, 2017, 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate to review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, C Wing, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

*Open:* September 27, 2017, 8:00 a.m. to 12:30 p.m.

*Agenda:* Call to order and report from the Director; Discussion of future meeting dates; Consideration of minutes of last meeting; Reports from Task Force on Minority Aging Research, Working Group on Program; Council Speaker; Program Highlights.

*Place:* National Institutes of Health, Building 31, C Wing, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Robin Barr, Director, National Institute on Aging, Office of Extramural Activities, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *barrr@nia.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/about/naca,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: July 26, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–16114 Filed 7–31–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the

standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.samhsa.gov/workplace.*

**FOR FURTHER INFORMATION CONTACT:** Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N03A, Rockville, Maryland 20857; 240–276–2600 (voice).

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

**HHS-Certified Instrumented Initial Testing Facilities**

Dynacare, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories)

**HHS-Certified Laboratories**

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 844–486–9226

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories).

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Legacy Laboratory Services—MetroLab, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295, (Formerly: MetroLab-Legacy Laboratory Services)

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088, Testing for Veterans Affairs (VA) Employees Only

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham

Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories)
Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

**Charles LoDico,**

*Chemist.*

[FR Doc. 2017–16131 Filed 7–31–17; 8:45 am]

**BILLING CODE 4160–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Immigration and Customs Enforcement

### Agency Information Collection Activities: Extension, Without Changes, of an Existing Information Collection; Comment Request; OMB Control No. 1653–0042

**AGENCY:** U.S. Immigration and Customs Enforcement, Department of Homeland Security.

**ACTION:** 30-Day Notice of Information collection for review; Form No. I–333, Obligor Change of Address; OMB Control No. 1653–0042.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE) is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** on May 26, 2017, Vol. 82 No. 24377 allowing for a 60 day comment period. USICE did not receive a comment in connection with the 60-day notice. The purpose of this notice is to allow an additional 30 days for public comments,

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *dhsdesk officer@omb.eop.gov*.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without changes, of a currently approved information collection.

(2) *Title of the Form/Collection:* Obligor Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–133; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The data collected on this form is used by ICE to ensure accuracy in correspondence between ICE and the obligor. The form serves the purpose of standardizing obligor notification of any changes in their address, and will facilitate communication with the obligor.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,000 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual burden hours.

Dated: July 26, 2017.

**Scott Elmore,**

*PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.*

[FR Doc. 2017–16085 Filed 7–31–17; 8:45 am]

**BILLING CODE 9111–28–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5997–N–39]**

### 60-Day Notice of Proposed Information Collection: Implementation of the Violence Against Women Reauthorization Act of 2013

**AGENCY:** Offices of Housing, Public and Indian Housing, and Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* October 2, 2017.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on November 25, 2008 (73 FR 71858). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

20410–5000; email *Colette.Pollard@hud.gov or* telephone 202–402–3400 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Interested persons may also submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

## A. Overview of Information Collection

*Title of Information Collection:* Implementation of the Violence Against Women Reauthorization Act of 2013
*OMB Approval Number:* 2577–0286.

*Type of Request* (*i.e.,* new, revision or extension of currently approved collection): Revision of currently approved collection.

*Form Number:* Forms HUD–5380, HUD–5381, HUD–5382, and HUD–5383.

*Other:* Emergency transfer reporting, lease addenda, and lease bifurcation.

*Description of the need for the information and proposed use:* The Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Public Law 113–4, 127 Stat. 54, reauthorized and amended the Violence Against Women Act of 1994, as previously amended (title IV, sec. 40001–40703 of Public Law 103–322, 42 U.S.C. 13925 *et seq.*). In doing so, VAWA 2013 expanded VAWA protections from HUD's Section 8 and Public Housing programs only to many of HUD's housing programs. The programs now covered under the final VAWA Rule include:

- Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q);
- Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013);
- Housing Opportunities for Persons with AIDS (HOPWA) program (42 U.S.C. 12901 *et seq.*);
- HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 *et seq.*);
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 *et seq.*), including the Emergency Solutions Grants (ESG) program, the Continuum of Care (CoC) program, and the Rural Housing Stability (RHS) Assistance program;
- Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5);
- Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z–1);
- HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f), and the Section 8 Moderate Rehabilitation Single Room Occupancy; and
- The Housing Trust Fund (12 U.S.C. 4568).

The provisions of VAWA 2013 that afford protections to victims of domestic violence, dating violence, sexual assault, or stalking are statutory and statutorily directed to be implemented. Accordingly, on November 16, 2016, HUD published a final rule at 81 FR 80724 (VAWA Rule), implementing VAWA 2013's provisions in its housing programs.

To fully implement these provisions under VAWA 2013 and the VAWA Rule, the Department must provide to all PHAs, owners and managers, and grant recipients (collectively ''Covered Housing Providers'' or ''CHPs'') the three following model documents:

- *Form HUD–5380:* Notice of Occupancy Rights Under the Violence Against Women Act. HUD must provide this notice to CHPs, which must in turn distribute it to tenants and to applicants denied assistance to ensure they are aware of their rights under VAWA and its implementing regulations.
- *Form HUD–5381:* Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. HUD must provide this model document to CHPs, which may, at their discretion, use it to develop their own emergency transfer plans, as required under VAWA 2013.
- *Form HUD–5382:* Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation. HUD must provide this certification form to CHPs, which must in turn distribute it to tenants and applicants. An individual may then optionally submit the form, certifying that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking and that the incident in question is bona fide. The certification form serves as one tool for documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking. (*Note:* This is a revision of and supersedes forms HUD–50066 and HUD–91066. VAWA 2013 required that the form be updated and made applicable to all covered programs.)

Tenants may provide third-party documentation along with or in lieu of form HUD–5382. The VAWA regulation stipulates that one such document—

A. Be signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, ''professional'') from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;

B. Be signed by the applicant or tenant; and

C. Specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking.

If an applicant or tenant submits such a statement, the corresponding professional may have to create or research documentation to accurately complete and maintain a record of the form.

*HUD provides form HUD–5383:* Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking to CHPs, which may, at their discretion, distribute it to tenants and applicants. This form serves as a model for use by a CHP to accept requests for emergency transfers under its required VAWA 2013 Emergency Transfer Plan. This form

allows an individual to submit and certify that they are a victim of domestic violence, dating violence, sexual assault, or stalking and that the incident in question is bona fide for purposes of being eligible for an emergency transfer. Thus, it serves as another tool for documenting the incident or incidents of domestic violence, dating violence, sexual assault, and stalking.

VAWA 2013 and/or the VAWA rule require or permit that CHPs also undertake certain activities as follows:

• *Emergency Transfer Reporting:* CHPs must keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations. Requests and outcomes of such requests must also be reported to HUD annually.

• The VAWA regulation includes certain requirements that must be incorporated into the tenant's lease.

• *Lease Bifurcation Option:* VAWA 2013 provides CHPs the option to bifurcate a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking. This option is designed to minimize the loss of housing to individual(s) covered under VAWA.

*Respondents* (*i.e.,* affected public): Public housing agencies, private multifamily housing owners and management agents, state and local agencies, and grant recipients.

*Estimated Number of Respondents:* 30,087.

*Estimated Number of Responses:* 7,941,827.

*Frequency of Response:* Varies.

*Average Hours per Response:* 1.4.

*Total Estimated Hour Burden:* 3,269,550.

**B. Proposed Changes to the Forms**

The OMB approved forms HUD–5380, HUD–5381, HUD–5382, and HUD–5383 are being revised to more closely align with the VAWA regulation and to clarify language. In addition to minor changes, HUD proposes to make the following specific changes:

*Form 5380:* Clarify the ''Tenant Protections'' and ''Removing the Abuser or Perpetrator from the Household'' sections to align with the regulations and provide more information about bifurcation. Rename ''Moving to Another Unit'' to ''Emergency Transfer'' and include more emergency transfer language. Add language in the ''Documenting That You Are or Have Been a Victim'' section about reasonable accommodations and update the language for consistency with the regulation. Lastly, update the ''Confidentiality'' section to more closely follow the regulation and put individuals on notice of confidentiality protections.

*Form 5381:* Add a note to covered housing providers that the use of the model form without adding program specific and housing provider specific policies will not be sufficient to meet the emergency transfer plan requirements. Add a definition section with definitions taken from the regulation. Rename the section titled ''Emergency Transfer Timing and Availability'' to ''Emergency Transfer Procedures'' and add two new sections, ''Emergency Transfer Policies'' section, which clarifies that the provider must specify their individual policies for different categories of transfers (*i.e.* internal or external transfers) where applicable, and a ''Priority for Transfers'' section, which requires providers to provide any type of priority being provided to a victim consistent with 24 CFR 5.2005(e)(3) and (e)(6). Update the ''Confidentiality'' section to more closely follow the regulation and put individuals on notice of confidentiality protections. Lastly, add a ''Making Plan Available'' section to describe how the plan will be made publicly available, where possible.

*Form 5382:* Update the ''Submission of Documentation'' section to include information about reasonable accommodations. In addition, add a warning for making false submissions to ensure users of the form are aware of the legal nature of submitting false information to an entity when seeking access to Federal funds.

*Form 5383:* Update the ''Confidentiality'' section to more closely follow the regulation and put individuals on notice of confidentiality protections. Reframe question number 11 as a ''Yes'' or ''No'' question. Lastly, add a warning for making false submissions to ensure users of the form are aware of the legal nature of submitting false information to an entity when seeking access to Federal funds.

Drafts of the revised forms are being published along with this notice for the public to see the proposed changes.

**C. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 26, 2017.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

**BILLING CODE 4210–67–P**

NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Expires XXXX

**Appendix A**

**[Insert Name of Housing Provider[1]]**

**NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT TO ALL TENANTS AND APPLICANTS**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. Notwithstanding the title of the statute, VAWA protections are not limited to women. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must also be made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **[insert name of program or rental assistance]** is in compliance with VAWA. This Notice explains your rights under VAWA with respect to housing and assistance[2] funded by HUD. A HUD-approved certification, form HUD-5382, is attached to this Notice. If you (the applicant or tenant) request protection under VAWA and you are asked to document that you are eligible for

[1] The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD's program-specific regulations identify the individual or entity responsible for providing the Notice of Occupancy Rights.

[2] The applicable assistance provided under a covered housing program generally consists of two types of assistance (one or both may be provided): Tenant-based rental assistance, which is rental assistance that is provided to the tenant; and project-based assistance, which is assistance that attaches to the unit in which the tenant resides. For project-based assistance, the assistance may consist of such assistance as operating assistance, development assistance, and mortgage interest rate subsidy. The form of assistance covered is provided in the program regulations.

protection, you can fill out the HUD-approved certification form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Applicants**

If you are an applicant for assistance under **[insert name of program]** you may not be denied admission to or denied assistance under [insert name of program] on the basis or as a direct result of the fact that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, if you otherwise qualify for assistance, participation, or occupancy.

**Protections for Tenants**

If you are a tenant housed or receiving assistance under **[insert name of program]** you may not be denied assistance under, terminated from participation in, or be evicted from the housing or assistance on the basis or as a direct result of the fact that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, if you otherwise qualify for assistance, participation, or occupancy.

If you are a tenant under a covered housing program, you may not be denied tenancy or occupancy rights under **[insert name of program or rental assistance]** solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if: (i) the criminal activity is engaged in by a member of your household or any guest or other person under the control of you (the tenant), and (ii) if you (the tenant) or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as: a serious or repeated violation of a lease executed under **[insert name of program or rental assistance]** by you if you are the victim or threatened victim of such incident; or good cause for terminating your assistance, tenancy, or occupancy rights under **[insert name of program or rental assistance]** if you are the victim or threatened victim of such incident.

**Removing the Abuser or Perpetrator from the Household**

When a member of your household engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, [HP] may remove the abuser or perpetrator from your lease or otherwise "bifurcate" your lease in order to evict, remove, terminate occupancy rights, or terminate assistance to the abuser or perpetrator, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.

However, this bifurcation must be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases and in accordance with any requirements under the relevant covered housing program. If [HP] removes the abuser or perpetrator through bifurcation, and that person was the eligible tenant under the program, [HP] must then allow any remaining tenant(s), who were not already eligible, a period of time, as specified in the regulations that apply to [insert name of covered housing

program], to establish eligibility under the same program or under another housing program covered by VAWA, or find alternative housing.

Before bifurcating a lease, [HP] may, but is not required to, ask you for documentation or certification of the incidence of domestic violence, dating violence, sexual assault, or stalking.

**Emergency Transfer**

If you (or a member of your household) are a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, you may seek an emergency transfer to another unit, provided that you meet the requirements for an emergency transfer, as further described below. Before allowing an emergency transfer, [HP] may ask you to submit a written request or fill out form HUD-5383, in which you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

**(1) You, the tenant, (or a member of your household) are a victim of domestic violence, dating violence, sexual assault, or stalking. (**If your housing provider does not already have documentation certifying that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form).

**(2) You expressly request the emergency transfer. (**Submission of form HUD-5383 confirms that you have expressly requested a transfer. Your housing provider may require that you submit this form or may accept another written or

oral request. See your housing provider's Emergency Transfer Plan for more details).

**(3)** (A) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

(B) **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you also qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP] will keep requests for emergency transfers by victims of domestic violence, dating ‘iolence, sexual assault, or stalking, and the location of any move by such victims and their ‘amilies in strict confidence.

HP's] Emergency Transfer Plan provides further information on emergency transfers, and [HP] nust make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting That You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

[HP] can, but is not required to, ask you (the tenant or applicant) to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. The time period to submit documentation is 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may extend the time period to submit the documentation. If the requested information is not provided within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, VAWA does not limit your housing provider's authority to deny you admission, assistance, participation, or tenancy. However, other laws or regulations may require your housing provider to extend the time period to submit the documentation or have alternative documentation requirements. For example, if you have a disability, your housing provider must provide reasonable accommodations to afford you an equal opportunity to request VAWA protections (e.g. providing an extension of time or assisting with written requests). Failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not prevent you from challenging the denial of assistance, termination, or eviction, nor does it prevent you from raising an incident of domestic violence, dating violence, sexual assault, or stalking at grievance, eviction, or termination proceedings.

You can provide one of the following to [HP] as documentation. It is your choice which of the following to submit:

Form HUD-5380
XXXX

- A completed HUD-approved certification, form HUD-5382, that is attached to this Notice and which may be used to document an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification requests the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide. [HP] must make the certification form available to you in multiple languages.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement signed by an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The statement must specify, under penalty of perjury, that this person believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking for which you are seeking VAWA protection, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under HUD's regulations at 24 CFR 5.2003. You must also sign this statement.
- Any other statement or evidence that [HP] has agreed to accept.

If [HP] receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as receiving certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), [HP] has the right to request that you provide third-party documentation within thirty (30) calendar days to resolve the conflict. You can satisfy this request by providing any of the documentation described above, (except for the form HUD-5382). If you fail or refuse to provide third-party documentation when there is conflicting evidence, VAWA does not limit [HP's] authority to deny you admission, assistance, participation, or tenancy. However, other laws or regulations may require [HP] to extend the time period for submitting the documentation or have alternative documentation requirements. For example, if you have a disability, [HP] must provide reasonable accommodations to afford you an equal opportunity to request VAWA protections (e.g. providing an extension of time or assisting with written requests). Failure to timely provide third-party documentation where there is conflicting evidence of domestic violence, dating violence, sexual assault, or stalking does not prevent you from challenging the denial of assistance, termination, or eviction, nor does it prevent you from raising an incident of domestic violence, dating violence, sexual assault, or stalking at grievance, eviction, or termination proceedings.

**Confidentiality**

If you inquire about or request any of the protections described in this Notice or represent that you are a victim of domestic violence, dating violence, sexual assault, or stalking entitled to the protections under this Notice, [HP] must keep strictly confidential any information you provide concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking,

including the fact that you are a survivor. Information about the incident(s) and your status as a survivor, such as the information provided on forms HUD-5382 and HUD-5383, may only be accessed by [HP's] employees or contractors if explicitly authorized by [HP] for reasons that specifically call for those individuals to have access to the information under applicable Federal, State, or local law. Information about the incident(s) and your status as a survivor shall not be entered into any shared database or disclosed to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance, or (iii) otherwise required by applicable law. In addition, HUD's VAWA regulations require Emergency Transfer Plans to provide for strict confidentiality measures to ensure that the location of your dwelling unit is never disclosed to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against you.

VAWA does not limit [HP's] duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

**Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not premised on an act or acts of domestic violence, dating violence, sexual assault, or stalking committed against you or an affiliated individual. However, [HP] cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a

more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this Notice might not apply, and you could be evicted and your assistance terminated, if [HP] can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

(1) Would occur within an immediate time frame and

(2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If [HP] can demonstrate this kind of danger, [HP] should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

**Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws. If you have a disability, [HP] must provide reasonable accommodations when necessary to allow you to equally benefit from VAWA protections.

**Non-Compliance with The Requirements of This Notice**

You may report [HP's] violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at **[insert Federal Register link]**. Additionally, [HP] must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA].**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Form HUD-5380
XXXX

**Attachment:** Certification form HUD-5382

**Public reporting burden** for this collection of information is estimated to range from 10 minutes to 1.5 hours per each covered housing provider's response, depending on covered housing program. This includes the time for printing and distributing the form. Housing providers distribute this Notice to tenants and to applicants at the times specified in 24 CFR 5.2005(a)(2) to ensure they are aware of their rights under VAWA and its implementing regulations. This is a model notice and no information is being collected. Covered housing programs in the Offices of Multifamily Housing, Public and Indian Housing, and Community Planning and Development are required to distribute this Notice. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Form HUD-5380
XXXX

## Appendix B

**Note to Covered Housing Providers:** This model contains only general provisions of an emergency transfer plan that apply across the covered HUD programs. Adoption of this model plan without further information will not be sufficient to meet a covered housing provider's responsibility to adopt an emergency transfer plan. Covered housing providers must consult applicable regulations and program-specific HUD guidance when developing their own emergency transfer plans to ensure their plans contain all required elements.

## MODEL EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

[Insert name of housing provider (acronym HP for purposes of this model plan)]

is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act of 1994 (VAWA), HP allows any tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. Notwithstanding the title of the statute, VAWA protections are not limited to women. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must also be made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on Federal regulations at 24 Code of Federal Regulations (CFR) part 5, subpart L, and a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the

Federal agency that oversees that **[insert name of program or rental assistance here]** is in compliance with VAWA.

**Definitions**

External emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.

Internal emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.

Safe unit refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is eligible for an emergency transfer, if:

(1) The tenant expressly requests the transfer, AND

(2)(A) the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit; OR

(2)(B) in the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the

sexual assault occurred on the premises in the 90-calendar-day period preceding the request for an emergency transfer.

A tenant's reasonable belief that there is a threat of imminent harm from further violence may stem from an incident of domestic violence, dating violence, sexual assault, or stalking of a household member.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

**Emergency Transfer Policies**

*[Insert [HP]'s emergency transfer policies, including the following, where applicable:]*

Internal transfers when a safe unit is immediately available: [*Insert HP's policies, including time frames, possible internal transfer locations, and priority status relative to other tenants seeking transfers.*]

Internal transfers when a safe unit is not immediately available: [*Insert HP's policies, including time frames, possible internal transfer locations, and priority status relative to other tenants seeking transfers.*]

External transfers: [*Insert HP's policies, including HP's role in facilitating transfers; providing referrals to community partners and affordable housing options, time frames, and priority status given to VAWA victims seeking external transfers into HP's property.*]

[*Policies and procedures for residents with Housing Choice Vouchers or other tenant-based rental assistance.]*

VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing program. [HP] may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

**Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify [HP]'s management office and submit a written request for a transfer to **[HP to insert location]**. [HP] will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer must include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the tenant's current dwelling unit; OR
2. In the case of a tenant who is a victim of sexual assault, either a statement that the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or a statement that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

**NOTE:** CHPs are not required to request documentation from a tenant seeking an emergency transfer. However, if a CHP elects to require documentation from tenants seeking an emergency transfer then the documentation requirement must be included in the CHP's emergency transfer plan.

**NOTE:** CHPs do not have to require that emergency transfer requests be written. The request may be oral or written, at the CHP's option, but the CHP must make its policy and procedures clear in this plan.

**Priority for Transfers**

Tenants who qualify for an emergency transfer under VAWA will be given the following priority over other categories of tenants seeking transfers and individuals seeking placement on waiting lists. **[HP should explain any measure of priority given under this emergency transfer plan.]**

**Confidentiality**

[HP] must follow strict confidentiality measures to ensure that the location of the tenant's dwelling unit is never disclosed to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. In addition, [HP] must keep strictly confidential any information the tenant provides concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, including the fact that the tenant is a survivor.

Information about the incident(s) and the tenant's status as a survivor, such as the information provided on forms HUD-5382 and HUD-5383, may only be accessed by employees or contractors of [HP's] if explicitly authorized by [HP] for reasons that specifically call for those individuals to have access to the information under applicable Federal, State, or local law.

Information about the incident(s) and the tenant's status as a survivor shall not be entered into any shared database or disclosed to any other entity or individual, except to the extent that disclosure is: (i) consented to by the tenant in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**Emergency Transfer Procedure**

[HP] cannot specify how long it will take to process a transfer request. [HP] will, however, act as quickly as possible to assist a tenant who qualifies for an emergency transfer. If [HP] identifies an available unit and the tenant believes that unit would not be safe, the tenant may request a transfer to a different unit. [HP] may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If [HP] has no safe and available units for which the tenant is eligible, [HP] will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, [HP] will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

**Making Plan Available**

[*Insert HP's policy for making the plan publicly available, when feasible.*]

**Safety and Security of Tenants**

When [HP] receives any inquiry or request regarding an emergency transfer, [HP] will encourage the person making the inquiry or request to take all reasonable precautions to be safe, including seeking guidance and assistance from a victim service provider.

Tenants who are or have been victims of domestic violence will be encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault will be encouraged to call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help will be encouraged to visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

[HP] will also provide contact information for local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

**NOTE:** A section of the plan providing this information is encouraged, but not required.

**NOTE:** If housing providers have arrangements, including memoranda of understanding with other covered housing providers to facilitate moves, this information should be attached to the emergency transfer plan as well.

**Public reporting burden** for this collection of information is estimated to range from four to eight hours per each covered housing provider's response, depending on covered housing program. This includes the time to develop program and project-specific emergency transfer policies and develop contacts with local service providers. This is a model plan and covered housing providers in the Offices of Multifamily Housing, Public and Indian Housing, and Community Planning and Development may, at their discretion, use it to develop their own emergency transfer plans, as required under VAWA 2013. No information is being collected. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## Appendix C

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286
Exp. XXXX

**Purpose of Form:** The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance or admission, or terminated from housing assistance on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. Despite the name of this law, VAWA protections are available to victims of domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, or sexual orientation. Tenants and applicants may use this form to certify victim status and request VAWA protections.

**Applicable Definitions Pursuant to HUD's Regulations at 24 CFR 5.2003**:

*Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

*Dating violence* means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

*Sexual assault* means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

*Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others or

(2) Suffer substantial emotional distress.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you may complete and submit this optional form or you may submit one of the following types of third-party documentation to your housing provider:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professionals") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meets the regulatory definition of domestic violence, dating violence, sexual assault, or stalking;

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency, or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Distribution or issuance of this form does not serve as a written request for certification. Your housing provider may extend the time period to submit the documentation. If the requested information is not provided within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, VAWA does not limit your housing provider's authority to deny you admission, assistance, participation, or tenancy. However, other laws or regulations may require your housing provider to extend the time period to submit the documentation or have alternative documentation requirements. For example, if you have a disability, your housing provider must provide reasonable accommodations to afford you an equal opportunity to request VAWA protections (e.g. providing an extension of time, assisting with written requests). Failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not prevent you from challenging the denial of assistance, termination, or eviction, nor does it prevent you from raising an incident of domestic violence, dating violence, sexual assault, or stalking at grievance, eviction, or termination proceedings.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential. Employees of your housing provider shall not have access to this confidential information unless explicitly authorized by your housing provider for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law. This confidential information shall not be entered into any shared database or disclosed to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance, or (iii) otherwise required by applicable law.

**Reasonable Accommodation:** If you have a disability, your housing provider must provide reasonable accommodations when necessary to allow you to equally benefit from VAWA protections.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. **Date the written request is received by victim:** _____

2. **Name of victim:**_____

3. **Name(s) of other family member(s) listed on the lease:** _____

_____

4. **Residence of victim:** _____

5. **Name of the accused perpetrator (if known and can be safely disclosed):** _____

_____

6. **Relationship of the accused perpetrator to the victim:**_____

7. **Date(s) and times(s) of incident(s) (if known):**_____

_____

8. **Location of incident(s):** _____

**In your own words, briefly describe the incident(s):**

_____

_____

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection; that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident(s) described above meets the applicable regulatory definition of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

**Signature** _____**Signed on (Date)** _____

**Warning:** 18 U.S.C. 1001 provides, among other things that whoever knowingly and willfully makes or uses a document or writing containing false, fictitious or fraudulent statement or entry in any matter within the jurisdiction of a department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years or both.

**Public Reporting Burden** for this collection of information is estimated to average 30 minutes per response. This includes the time for collecting, reviewing, and reporting. Housing providers in the Offices of Multifamily Housing, Public and Indian Housing, and Community Planning and Development may request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. Tenants and applicants may use this form to certify victim status and request VAWA protections. The information is subject to the confidentiality requirements of VAWA. This

agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Form HUD-5382
XXXX

## Appendix D

**EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286
Exp. XXXX

**Purpose of Form:** If you (or a member of your household) are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault, or stalking. Submitting this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's Emergency Transfer Plan for more information about emergency transfers.

**The requirements you must meet are:**

**(1) You (the tenant) are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you (or your household member) are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form;

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. See your housing provider's Emergency Transfer Plan for more details; and

**(3) (A) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**(B) You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you also qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Your reasonable belief that there is a threat of imminent harm from further violence may stem from an incident of domestic violence, dating violence, sexual assault, or stalking of a household member.

**Submission of Documentation:** If you have third-party documentation that demonstrates why are eligible for an emergency transfer, you may submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** Your housing provider must follow strict confidentiality measures to ensure that the location of your dwelling unit is never disclosed to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against you. In addition, your housing provider must keep strictly confidential any information you provide concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, including the fact that you are a survivor. Information about the incident(s) and your status as a survivor, such as the information on this form, may only be accessed by employees or contractors of your housing provider if explicitly authorized by your housing provider for reasons that specifically call for those individuals to have access to the information under applicable Federal, State, or local law. Information about the incident(s) and your status as a survivor shall not be entered into any shared database or disclosed to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance, or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. **Name of victim requesting an emergency transfer:** _____
2. **Your name (if different from victim's)**_____
3. **Name(s) of other family member(s) listed on the lease:**_____

_____

4. **Name(s) of other family member(s) who would transfer with the victim:**_____

_____

5. **Address of location from which the victim seeks to transfer:** _____
6. **Address or phone number for contacting the victim:**_____
7. **Name of the accused perpetrator (if known and can be safely disclosed):**_____
8. **Relationship of the accused perpetrator to the victim:**_____
9. **Date(s), Time(s) and location(s) of incident(s):**_____

_____

Form HUD-5383
XXXX

**10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____**

**11. Does the person requesting the transfer reasonably believe there is a threat of imminent harm from further violence if the person remains in the same dwelling unit that he or she is currently occupying**? _____

**12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____**

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

**Warning**: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing false, fictitious or fraudulent statement or entry in any matter within the jurisdiction of a department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years or both.

**Public reporting burden** for this collection of information is estimated to average 30 minutes per response. This includes the time for collecting, reviewing, and reporting. Housing providers in the Offices of Multifamily Housing, Public and Indian Housing, and Community Planning and Development may ask for a written request for an emergency transfer for a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking. Housing providers may distribute this form to tenants and tenants may use it to request an emergency transfer. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Form HUD-5383
XXXX

[FR Doc. 2017–16110 Filed 7–31–17; 8:45 am]
BILLING CODE 4210–67–C

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–IA–2017–0038; FXIA16710900000–178–FF09A30000]**

### Foreign Endangered Species; Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

**DATES:** We must receive comments or requests for documents on or before August 31, 2017.

**ADDRESSES:** *Submitting Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2017–0038.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2017–0038, U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section for more information).

*Viewing Comments:* Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

**FOR FURTHER INFORMATION CONTACT:** Joyce Russell, Government Information Specialist, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2023; facsimile 703–358–2280.

**SUPPLEMENTARY INFORMATION:**

## I. Public Comment Procedures

*A. How do I request copies of applications or comment on submitted applications?*

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **FOR FURTHER INFORMATION CONTACT**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

*B. May I review comments submitted by others?*

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

## II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; Jan. 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

## III. Permit Applications

We invite the public to comment on applications to conduct certain activities with endangered and threatened species. With some exceptions, the Endangered Species Act (16 U.S.C. 1531 *et seq.;* ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

*Applicant:* University of Texas-Austin, Austin, TX PRT–124346

The applicant requests a permit to import tissue samples of Verreaux's sifaka (*Propithecus verreauxi*) from Morondava, Madagascar, for scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Wildlife & Environmental Conservation, Inc., Moorpark, CA; PRT–29610C

The applicant requests a permit to purchase in interstate commerce two captive-born male cheetahs (*Acinonyx jubatus*) from Metro Richmond Zoo, Moseley, Virginia, to enhance the propagation or survival of the species.

*Applicant:* Veterinary Initiative for Endangered Wildlife, Bozeman, MT; PRT–75654B

The applicant requests amendment of their permit to import biological samples from the Ministry of Forestry & Soil Conservation, Chitwan, Nepal, to include the following species: Asian elephant (*Elephas maximus*), Indian rhinoceros (*Rhinoceros unicornis),* pygmy hog (*Sus salvanius*), Alpine musk deer (*Moschus chrysogaster*), black musk deer (*Moschus fuscus*), seladang (*Bos gaurus*), Chiru (*Pantholops hodgsonii),* Himalayan

goral (*Nemorhaedus goral*), Himalayan serow (*Capricornis thar*), barasingha (*Rucervus duvaucelii,* listed as swamp deer (*Cervus duvauceli*)), Indochina hog deer (*Axis porcinus*), hispid hare (*Caprolagus hispidus*), snow leopard (*Panthera uncia*), spotted linsang (*Prionodon pardicolor*), Kashmir gray langur (*Semnopithecus ajax*), Terai grey langur (*Semnopithecus hector*), and Nepal grey langur (*Semnopithecus schistaceus*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 4-year period.

*Applicant:* Naples Zoo, Inc., Naples, FL; PRT–30387C

The applicant requests a renewal and amendment to a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species: Cheetah (*Acinonyx jubatus*), slender-horned gazelle (*Gazella leptoceros*), radiated tortoise (*Astrochelys radiata*), siamang (*Symphalangus syndactylus*), clouded leopard (*Neofelis nebulosa*), tiger (*Panthera tigris*), northern plains gray langur (*Semnopithecus entellus*), Francois' langur (*Trachypithecus francoisi*), white-headed lemur (*Eulemur albifrons*), red-collared lemur (*Eulemur collaris*), ring-tailed lemur (*Lemur catta*), red ruffed lemur (*Varecia rubra*), red-cheeked gibbon (*Nomascus gabriellae*), lar gibbon (*Hylobates lar*), and cotton-top tamarin (*Saguinus oedipus*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Palfam Ranch Management LLC, Giddings, TX; PRT–64738A

The applicant requests a renewal of the permit authorizing the cull of excess barasingha (*Rucervus duvaucelii*) and red lechewe (*Kobus leche*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Southeastern Louisiana University, Hammond, LA; PRT–32285C

The applicant requests a permit to import the olive ridley sea turtle (*Lepidochelys olivacea*) plasma and gonad samples from the Conservation Area, Tempisque, Guancaste, Costa Rica, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Michael Wallace, Mineral, VA; PRT–32834C

The applicant requests a permit to export 'olulu (*Brighamia insignis*) to Loei, Thailand, to enhance the propagation or survival of the species. This notification is for a single export.

*Applicant:* Xiaobo Chu, San Ramon, CA; PRT–62256A

The applicant requests a renewal and amendment to a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Jack L. Phillips, Gladewater, TX; PRT–195823

The applicant requests a renewal to a captive-bred wildlife registration under 50 CFR 17.21(g) for the red lechwe (*Kobus leche*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period. This applicant was published in the **Federal Register** on March 22, 2017. We are providing current application material for the public's review and comment.

*Applicant:* Michael A. Soupios, East North Port, NY; PRT–18167C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*) to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Safari West, Santa Rosa, CA; PRT–27040C

The applicant requests a renewal and amendment to a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species: Cheetah (*Acinonyx jubatus*), northern bald ibis (*Geronticus eremita*), ring-tailed lemur (*Lemur catta*), and the black and white ruffed lemur (*Varecia variegata*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Trophy Applicants

The following applicants each request a permit to import sport-hunted trophies of a male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

*Applicant:* Chadwick Derral King, Seminole, TX; PRT–30891C

*Applicant:* Robert Earl Anderson, Jr., Georgetown, KY; PRT–30893C

*Applicant:* Arnulfo Rodriguez, Spring, TX; PRT–20528C

*Applicant:* Corey Schaefer, Mountain Home, TX; PRT–24114C

*Applicant:* Amanda Henson, Carrollton, TX; PRT–32538C

## IV. Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the **Federal Register** notice announcing the permit issuance date by searching in *www.regulations.gov* under the permit number listed in this document.

## V. Public Comments

You may submit your comments and materials concerning this notice by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

We will post all hardcopy comments on *http://www.regulations.gov.*

## VI. Authorities

Endangered Species Act of 1973, (16 U.S.C. 1531 *et seq.*).

**Joyce Russell,**

*Government Information Specialist, Branch of Permits, Division of Management Authority.*

[FR Doc. 2017–16121 Filed 7–31–17; 8:45 am]

**BILLING CODE 4333–15–P**

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWY–957000–17–L13100000–PP0000]**

### Filing of Plats of Survey, Nebraska and Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. The surveys, which were executed at the request of the Bureau of Indian Affairs and the BLM, are necessary for the management of these lands.

**DATES:** Protests must be received by the BLM by August 31, 2017.

**ADDRESSES:** You may submit written protests to the Wyoming State Director at WY957, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

**FOR FURTHER INFORMATION CONTACT:** Sonja Sparks, BLM Wyoming Acting Chief Cadastral Surveyor at 307–775–6225 or *s75spark@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lands surveyed are: The plat and field notes representing the dependent resurvey of portions of the west boundary, the subdivisional lines, and the subdivision of section lines, and the survey of the subdivision of certain sections, Township 26 North, Range 6 East, Sixth Principal Meridian, Nebraska, Group No. 184, was accepted June 27, 2017.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines, Township 22 North, Range 92 West, Sixth Principal Meridian, Wyoming, Group No. 927, was accepted June 27, 2017.

The plat and field notes representing the dependent resurvey of portions of Tracts 45 and 46, and a portion of the subdivisional lines, Township 48 North, Range 88 West, Sixth Principal Meridian, Wyoming, Group No. 938, was accepted June 27, 2017.

The plat and field notes representing the dependent resurvey of the Eighth Standard Parallel North, through a portion of Range 68 West and through Range 69 West, portions of the east and west boundaries, and a portion of the subdivisional lines, Township 32 North, Range 69 West, Sixth Principal Meridian, Wyoming, Group No. 949, was accepted June 27, 2017.

The plat and field notes representing the dependent resurvey of Mineral Survey No. 462, and a portion of Mineral Survey No. 463, and the survey of the subdivision of section 18, Township 26 North, Range 119 West, Sixth Principal Meridian, Wyoming, Group No. 860, was accepted July 20, 2017.

The plat and field notes representing the dependent resurvey of Lot 43, portions of Lots 39, 45 and 47, portions of the subdivisional lines, and the survey of the subdivision of Lots 39 and 43, Township 52 North, Range 94 West, Sixth Principal Meridian, Wyoming, Group No. 921, was accepted July 20, 2017.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plats and field notes are available to the public at a cost of $4.20 per plat and $.13 per page of field notes.

Dated: July 26, 2017.

**Sonja S. Sparks,**

*Acting Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. 2017–16138 Filed 7–31–17; 8:45 am]

**BILLING CODE 4310–22–P**

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[F–14949–B; 17X.LLAK9400000.L14100000.HY0000.P]**

### Alaska Native Claims Selection

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Decision Approving Lands for Conveyance.

**SUMMARY:** The Bureau of Land Management (BLM) hereby provides constructive notice that it will issue an appealable decision approving conveyance of the surface estate in the lands described below to Tulkisarmute Incorporated, for the Native village of Tuluksak, pursuant to the Alaska Native Claims Settlement Act of 1971, as amended (ANCSA). As provided by ANCSA, the BLM will convey the subsurface estate in the same lands to Calista Corporation when the BLM conveys the surface estate to Tulkisarmute Incorporated.

**DATES:** Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the time limits set out in the **SUPPLEMENTARY INFORMATION** section.

**ADDRESSES:** A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

**FOR FURTHER INFORMATION CONTACT:** Ralph Eluska, Sr., BLM Alaska State Office, at 907–271–3325, or by email at *reluska@blm.gov.* Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact the BLM Alaska State Office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** As required by 43 CFR 2650.7(d), notice is hereby given that the BLM will issue an appealable decision to Tulkisarmute Incorporated. The decision approves conveyance of the surface estate in certain lands pursuant to ANCSA (43 U.S.C. 1601, *et seq.*). As provided by ANCSA, the subsurface estate in the same lands will be conveyed to Calista Corporation when the surface estate is conveyed to Tulkisarmute Incorporated. The lands are located in the vicinity of Tuluksak, Alaska, and are described as:

Lots 4, 7, and 8, U.S. Survey No. 3797, Alaska.

Containing 86.22 acres.

Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 31, 2017 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30

days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by facsimile will not be accepted as timely filed.

Notice of the decision will also be published once a week for four consecutive weeks in The Delta Discovery newspaper.

**Ralph L. Eluska, Sr.,**

*Land Transfer Resolution Specialist, Division of Lands and Cadastral.*

[FR Doc. 2017–16081 Filed 7–31–17; 8:45 am]

**BILLING CODE 4310–JA–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–NERO–PAGR–23556; PX.PR166532I.00.1]**

### Paterson Great Falls National Historical Park Advisory Commission; Postponement of Meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The July 2017 Paterson Great Falls National Historical Park Advisory Commission meeting has been postponed.

**DATES:** The meeting was scheduled for July 13, 2017, in Paterson, New Jersey, and will be rescheduled at a later date. We will publish a future notice with new meeting date and location.

**FOR FURTHER INFORMATION CONTACT:** Darren Boch, Superintendent and Designated Federal Officer, Paterson Great Falls National Historical Park, 72 McBride Avenue, Paterson, NJ 07501, (973) 523–2630, or email *darren_boch@nps.gov.*

**SUPPLEMENTARY INFORMATION:** The 9-member Commission advises the Secretary of the Interior in the development and implementation of the park's management plan.

Additional information is available in the meeting notice published on December 9, 2016 (81 FR 89145)

**Authority:** 16 U.S.C. 410lll; 5 U.S.C. Appendix 1–16.

**Alma Ripps,**

*Chief, Office of Policy.*

[FR Doc. 2017–16096 Filed 7–31–17; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–NERO–ACAD–23498; PPNEACADSO, PPMPSPDIZ.YM0000]**

### Acadia National Park Advisory Commission; Postponement of Meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The June 2017 Acadia National Park Advisory Commission meeting has been postponed.

**DATES:** The meeting was scheduled for June 5, 2017, in Bar Harbor, Maine, and will be rescheduled at a later date. We will publish a future notice with a new meeting date and location.

**FOR FURTHER INFORMATION CONTACT:** Further information concerning these meetings may be obtained from R. Michael Madell, Deputy Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–8701 or via email *michael_madell@nps.gov.*

**SUPPLEMENTARY INFORMATION:** The 16-member Commission consults with the Secretary of the Interior on matters relating to the management and development of Acadia National Park including, but not limited to, the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

Additional information is available in the meeting notice published on December 9, 2016 (81 FR 89148).

**Authority:** 16 U.S.C. 341 note; 5 U.S.C. Appendix 1–16.

**Alma Ripps,**

*Chief, Office of Policy.*

[FR Doc. 2017–16094 Filed 7–31–17; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–NERO–CEBE–23521; PPNECEBE00, PPMPSAS1Z.Y00000]**

### Cedar Creek and Belle Grove National Historical Park Advisory Commission; Postpostment of Meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The June 2017 Cedar Creek and Belle Grove National Historical Park Advisory Commission meeting has been postponed.

**DATES:** The meeting was scheduled for June 15, 2017, in Front Royal, Virginia, and will be reschuelded at a later date. We will publish a future notice with new meeting date and location.

**FOR FURTHER INFORMATION CONTACT:** Further information concerning the meetings may be obtained from Karen Beck-Herzog, Site Manager, Cedar Creek and Belle Grove National Historical Park, P.O. Box 700, Middletown, Virginia 22645, telephone (540) 868–9176, or visit the park Web site: *http://www.nps.gov/cebe/parkmgmt/park-advisory-commission.htm.*

**SUPPLEMENTARY INFORMATION:** The 15-member Commission was designated by Congress to provide advice to the Secretary of the Interior in the preparation and implementation of the park's general management plan and in the identification of sites of significance outside the park boundary.

Additional information is available in the meeting notice published on January 19, 2017 (82 FR 6643).

**Authority:** 16 U.S.C 410iii–7; 5 U.S.C. Appendix 1–16.

**Alma Ripps,**

*Chief, Office of Policy.*

[FR Doc. 2017–16095 Filed 7–31–17; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–NERO–GATE–23558; PPNEGATEB0, PPMVSCS1Z.Y00000]**

### Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee; Postponement of Meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The June 2017 Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee meeting has been postponed.

**DATES:** The meeting was scheduled for June 8, 2017, in Lincroft, New Jersey, and will be rescheduled at a later date. We will publish a future notice with new meeting date and location.

**FOR FURTHER INFORMATION CONTACT:** Daphne Yun, Acting Public Affairs Officer, Gateway National Recreation Area, Sandy Hook Unit, 210 New York Avenue, Staten Island, New York 10305, (718) 354–4602, email *Daphne_Yun@nps.gov,* or visit the park Web site: *https://forthancock21.org/.*

**SUPPLEMENTARY INFORMATION:** The Committee provides advice to the National Park Service on developing a plan for the reuse of more than 30 historic buildings that the NPS has

determined are excess to its needs and eligible for lease under 54 U.S.C. 102102 or 54 U.S.C. 306121–306122, or under agreement through appropriate authorities.

Additional information is available in the meeting notice published on December 9, 2016 (81 FR 89147).

**Authority:** 54 U.S.C. 100906; 5 U.S.C. Appendix 1–16.

**Alma Ripps,**

*Chief, Office of Policy.*

[FR Doc. 2017–16097 Filed 7–31–17; 8:45 am]

**BILLING CODE 4312–52–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–709 (Fourth Review)]**

## Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Germany; Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on certain seamless carbon and alloy steel standard, line, and pressure pipe (''certain seamless pipe'') from Germany would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

**DATES:** Applicable August 1, 2017. To be assured of consideration, the deadline for responses is August 31, 2017. Comments on the adequacy of responses may be filed with the Commission by October 16, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), 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 proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On August 3, 1995, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of certain seamless pipe from Germany (60 FR 39704). Following the first five-year reviews by Commerce and the Commission, effective July 16, 2001, Commerce issued a continuation of the antidumping duty order on imports of certain seamless pipe from Germany (66 FR 37004). Following the second five-year reviews by Commerce and the Commission, effective May 18, 2007, Commerce issued a continuation of the antidumping duty order on imports of certain seamless pipe from Germany (72 FR 28026). Following the third five-year reviews by Commerce and the Commission, effective September 14, 2012, Commerce issued a continuation of the antidumping duty order on imports of certain seamless pipe from Germany (77 FR 56809). The Commission is now conducting a fourth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is Germany.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, its full first and second five-year review determinations, and its expedited third five-year review determination, the Commission found one *Domestic Like Product* consisting of all seamless carbon and alloy steel standard, line, and pressure pipe and tubes not more than 4.5 inches in outside diameter, including redraw hollows.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, its full first and second five-year review determinations, and its expedited third five-year review determination, the Commission defined the *Domestic Industry* as all U.S. producers of seamless carbon and alloy steel standard, line, and pressure pipe and tube not more than 4.5 inches in outside diameter, including redraw hollows.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the proceeding and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval

to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding 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.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 31, 2017. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 16, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–393, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

*Information to be Provided in Response to This Notice of Institution:*

As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant).

If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: July 25, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017–15935 Filed 7–31–17; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1063]**

## Certain X-Ray Breast Imaging Devices and Components Thereof; Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 28, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Hologic, Inc. of Marlborough, Massachusetts. A supplement was filed on July 10, 2017. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain x-ray breast imaging devices and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,831,296 (''the '296 patent''); U.S. Patent No. 8,452,379 (''the '379 patent''); U.S. Patent No. 7,688,940 (''the '940 patent''); U.S. Patent No. 7,986,765 (''the '765 patent''); and U.S. Patent No. 7,123,684 (''the '684 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained

therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

**SUPPLEMENTARY INFORMATION:**

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on July 26, 2017, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain x-ray breast imaging devices and components thereof by reason of infringement of one or more of claims 23–25, 33, 35, 36, 39, 40, 42, and 44 of the '296 patent; claims 1, 4, and 6–11 of the '379 patent; claims 1, 2, 4, 5, 15, 22, and 23 of the '940 patent; claims 10–15 of the '765 patent; and claims 11, 29, 32, 41, and 44 of the '684 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) *The complainant is:* Hologic, Inc., 250 Campus Drive, Marlborough, MA 01752.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

FUJIFILM Corporation, 9–7–3 Akasaka Minato-ku, Tokyo, Japan 107–0052.

FUJIFILM Medical Systems USA, Inc., 419 West Avenue, Stamford, CT 06902.

FUJIFILM Techno Products Co., Ltd., Factory Hanamaki Site, 2–1–3 Kitayuguchi Hanamaki-Shi Iwate, Japan 025–0301.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: July 26, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017–16112 Filed 7–31–17; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Integrated Photonics Institute for Manufacturing Innovation Operating Under the Name of the American Institute for Manufacturing Integrated Photonics

Notice is hereby given that, on June 19, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Integrated Photonics Institute for Manufacturing Innovation operating under the name of the American Institute for Manufacturing Integrated Photonics (''AIM Photonics'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GE Global Research, Niskayuna, NY; Cisco Systems, Inc., San Jose, CA; AIXTRON SE, Sunnyvale, CA; Toppan Photomasks, Inc., Round Rock, TX; Ortho Clinical Diagnostics, Rochester, NY; OndaVia, Inc., Hayward, CA; Lockheed Martin Corporation, Bethesda, MA; The University of Akron, Akron, OH; MIT Lincoln Laboratory, Lexington, MA; and Hamamatsu Corporation, Bridgewater, NJ, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AIM Photonics intends to file additional written notifications disclosing all changes in membership.

On June 16, 2016, AIM Photonics filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 2016 (81 FR 48450).

The last notification was filed with the Department on March 22, 2017. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on May 1, 2017 (82 FR 20384).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2017–16053 Filed 7–31–17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Information Collection Activities, Comment Request

**AGENCY:** Bureau of Labor Statistics, Department of Labor.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The Department of Labor, 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 of 1995. This 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the Quarterly Census of Employment and Wages Program. 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 **ADDRESSES** section of this notice on or before October 2, 2017.

**ADDRESSES:** Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

**FOR FURTHER INFORMATION CONTACT:** Carol Rowan, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Quarterly Census of Employment and Wages (QCEW) program, a Federal/State cooperative effort, produces monthly employment and quarterly wage information. It is a by-product of quarterly reports submitted to State Workforce Agencies (SWAs) by employers subject to State Unemployment Insurance (UI) laws. The collection of these data is authorized by 29 U.S.C. 1, 2. The QCEW data, which are compiled for each calendar quarter, provide a comprehensive business name and address file with employment and wage information for employers subject to State UI laws. Similar data for Federal Government employers covered by the Unemployment Compensation for Federal Employees program also are included. These data are submitted to the BLS by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. The BLS summarizes these data to produce totals for all counties, Metropolitan Statistical Areas (MSAs), the States, and the nation. The QCEW program provides a virtual census of nonagricultural employees and their wages, with about 44 percent of the workers in agriculture covered as well.

The QCEW program is a comprehensive and accurate source of data on the number of establishments, monthly employment, and quarterly wages, by industry, at the six-digit North American Industry Classification System (NAICS) level, and at the national, State, MSA, and county levels. The QCEW series has broad economic significance in measuring labor trends and major industry developments, in time series analyses and industry comparisons, and in special studies such as analyses of establishments, employment, and wages by size of establishment.

**II. Current Action**

Office of Management and Budget clearance is being sought for the Quarterly Census of Employment and Wages (QCEW) program.

The QCEW program is the only Federal statistical program that provides information on establishments, wages, tax contributions and the number of employees subject to State UI laws and the Unemployment Compensation for the Federal Employees program. The consequences of not collecting QCEW data would be grave to the Federal statistical community. The BLS would not have a sampling frame for its establishment surveys; it would not be able to publish as accurate current estimates of employment for the U.S. States, and metropolitan areas; and it would not be able to publish quarterly census totals of local establishment counts, employment, and wages. The Bureau of Economic Analysis would not be able to publish as accurate personal income data in a timely manner for the U.S., States, and local areas. Finally, the Department of Labor's Employment Training Administration would not have the information it needs to administer the Unemployment Insurance Program.

**III. Desired Focus of Comments**

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

*Title of Collection:* Quarterly Census of Employment and Wages (QCEW) Program.

*OMB Number:* 1220–0012.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* State Governments.

*Total Respondents:* 53.

*Frequency:* Quarterly.

*Total Responses:* 212.

*Average Time per Response:* 4,200 hours.

*Estimated Total Burden Hours:* 890,400 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 26th day of July 2017.

**Kimberley Hill,**

*Chief, Division of Management Systems.*

[FR Doc. 2017–16168 Filed 7–31–17; 8:45 am]

**BILLING CODE 4510–24–P**

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Information Collection Activities; Comment Request

**AGENCY:** Bureau of Labor Statistics, Department of Labor.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The Department of Labor, 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 of 1995 (PRA95). This 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of ''Cognitive and Psychological Research.'' A copy of the proposed information collection request (ICR) 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 **ADDRESSES** section of this notice on or before October 2, 2017.

**ADDRESSES:** Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

**FOR FURTHER INFORMATION CONTACT:** Nora Kincaid, BLS Clearance Officer, telephone number 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Bureau of Labor Statistics' Behavioral Science Research Center (BSRC) conducts theoretical, applied, and evaluative research aimed at improving the quality of data collected and published by the Bureau. Since its creation in 1988, the BSRC has advanced the study of survey methods research, approaching issues of non-sampling error within a framework that draws heavily on the theories and methods of the cognitive, statistical, and social sciences. The BSRC research focuses primarily on the assessment of survey instrument design and survey administration, as well as on issues related to interviewer training, the interaction between interviewer and respondent in the interview process, and the usability of data-collection instruments by both interviewers and respondents. Improvements in these areas result in greater accuracy and response rates of BLS surveys, frequently reduce costs in training and survey administration, and further ensure the effectiveness of the Bureau's overall mission.

#### II. Current Action

Office of Management and Budget clearance is being sought for ''Cognitive and Psychological Research.'' The purpose of this request for clearance by the BSRC is to conduct cognitive and psychological research designed to enhance the quality of the Bureau's data collection procedures and overall data management. The BLS is committed to producing the most accurate and complete data within the highest quality assurance guidelines. The BSRC was created to aid in this effort and it has demonstrated the effectiveness and value of its approach. Over the next few years, demand for BSRC consultation is expected to remain high as approaches are explored and tested for dealing with increasing nonresponse in key Bureau surveys. Moreover, as the use of web-based surveys continues to grow, so too will the need for careful tests of instrument design and usability, human-computer interactions, and the impact of multiple modes on data quality. The BSRC is uniquely equipped with both the skills and facilities to accommodate these demands.

The extension of the accompanying clearance package reflects an attempt to accommodate the increasing interest by BLS program offices and other agencies in the methods used, and the results obtained, by the BSRC. This package reflects planned research and development activities for FY2018 through FY2020, and its approval will enable the continued productivity of a state-of-the-art, multi-disciplinary program of behavioral science research to improve BLS survey methodology.

#### III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

*Type of Review:* Extension of a currently approved collection.

*Agency*: Bureau of Labor Statistics.

*Title:* Cognitive and Psychological Research.

*OMB Number:* 1220–0141.

*Affected Public:* Individuals and Households, Private Sector.

*Total Respondents:* 6,100.

*Frequency:* One time.

*Total Responses:* 6,100.

*Average Time per Response:* 20.66 minutes.

*Estimated Total Annual Burden Hours:* 2,100 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 25th day of July 2017.

**Kimberley D. Hill,**

*Chief, Division of Management Systems.*

[FR Doc. 2017–16169 Filed 7–31–17; 8:45 am]

BILLING CODE 4510–24–P

## NATIONAL TRANSPORTATION SAFETY BOARD

### Investigative Hearing

On October 2, 2016, about 1154 Alaska daylight time, a turbine-powered Cessna 208B Grand Caravan airplane, N208SD, sustained substantial damage after impacting steep, mountainous, rocky terrain about 12 miles northwest of Togiak, Alaska. The airplane was being operated as flight 3153 by Hageland Aviation Services, Inc., dba Ravn Connect, Anchorage, Alaska, as a scheduled commuter flight under the provisions of 14 Code of Federal Regulations (CFR) Part 135 and visual flight rules (VFR). All three people on

board (two commercial pilots and one passenger) sustained fatal injuries. Visual meteorological conditions prevailed at the Togiak Airport, Togiak, and company flight following procedures were in effect. Flight 3153 departed Quinhagak, Alaska, at 1133, destined for Togiak.

Parties to hearing are the Federal Aviation Administration (FAA), Hageland Aviation Services, Honeywell International, and the Medallion Foundation.

**Order of Proceedings**

1. Opening Statement by the Chairman of the Board of Inquiry
2. Introduction of the Board of Inquiry and Technical Panel
3. Introduction of the Parties to the Hearing
4. Introduction of Exhibits by Hearing Officer
5. Overview of the incident and the investigation by Investigator-In-Charge
6. Calling of Witnesses by Hearing Officer
7. Closing Statement by the Chairman of the Board of Inquiry

The hearing is scheduled to begin at 8 a.m. (Alaska Daylight Time), Aug. 17, 2017 in the Mid-Deck Ballroom of the Captain Cook Hotel, 939 W. 5th Ave., Anchorage, Alaska. Media planning to cover the investigative hearing are asked to contact the NTSB's chief of media relations, Chris O'Neil at 202–314–6133 or *Christopher.oneil@ntsb.gov.*

The investigative hearing will be transmitted live via the NTSB's Web site at *http://www.capitolconnection.net/capcon/ntsb/ntsb.htm.* A link for webcast will be available shortly before the start of the hearing. An archival video of the hearing will be available via the Web site for 30 days after the hearing.

*NTSB Investigative Hearing Officer:* Mr. Shaun Williams—*shaun.williams@ntsb.gov.*

Dated: Wednesday, July 26, 2017.

**Candi R. Bing,**

*Federal Register Liaison Officer.*

[FR Doc. 2017–16091 Filed 7–31–17; 8:45 am]

**BILLING CODE 7533–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2017–0154]**

## Clarification on Endorsement of Nuclear Energy Institute Guidance in Designing Digital Upgrades in Instrumentation and Control Systems

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory issue summary; request for comment and public meeting; extension of comment period.

**SUMMARY:** On July 3, 2017, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on ''Clarification on Endorsement of Nuclear Energy Institute Guidance in Designing Digital Upgrades in Instrumentation and Control Systems.'' The public comment period was originally scheduled to close on August 2, 2017. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

**DATES:** The due date of comments requested in the document published on July 3, 2017 (82 FR 30913) is extended. Comments should be filed no later than August 16, 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–2017–0154. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: TWFN- 8- D36M, 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:** Tekia Govan, telephone: 301–415–6197, email: *Tekia.Govan@nrc.gov,* or Jason Drake, telephone: 301–415–8378, email: *Jason.Drake@nrc.gov.* Both are staff members of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2017–0154 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–2017–0154.
- 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 draft RIS, ''NRC Draft Regulatory Issue Summary 2017–XX Supplement to RIS 2002–22,'' is available in ADAMS under Accession No. ML17102B507.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID NRC–2017–0154 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC 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. Discussion

On July 3, 2017, the NRC solicited comments on ''Clarification on Endorsement of Nuclear Energy Institute Guidance in Designing Digital Upgrades in Instrumentation and Control Systems.'' The purpose of the RIS is clarify the endorsed NEI 01–01 guidance regarding licensee upgrades to digital instrumentation and control systems. The public comment period was

originally scheduled to close on August 2, 2017. The NRC has decided to extend the public comment period on this document until August 16, 2017, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 27th day of July, 2017.

For the Nuclear Regulatory Commission.

**Alexander D. Garmoe,**

*Acting Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2017–16153 Filed 7–31–17; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–390; 50–391; 50–259; 50–260; 50–296; 50–327; 50–328; License Nos. NPF–90; NPF–96; DPR–33; DPR–52; DPR–68; DPR–77; DPR–79; EA–17–022; NRC–2017–0172]**

## U.S. Tennessee Valley Authority, Watts Bar Nuclear Plant; Browns Ferry Nuclear Plant; and Sequoyah Nuclear Plant

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Confirmatory order; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (Order) to U.S. Tennessee Valley Authority (the licensee), confirming the agreement reached in an Alternative Dispute Resolution mediation session held on June 9, 2017. This Order will ensure the licensee restores compliance with NRC's regulations.

**DATES:** The Order was issued on July 27, 2017.

**ADDRESSES:** Please refer to Docket ID NRC–2017–0172 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0172. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; e-mail: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Scott Sparks, Region II, U.S. Nuclear Regulatory Commission, Atlanta, Georgia 30303–1257; telephone: 404–997–4422; e-mail: *Scott.Sparks@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated at Atlanta, Georgia, this 27th day of July 2017.

For the Nuclear Regulatory Commission.

**Leonard D. Wert,**

*Deputy Regional Administrator for Operations.*

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–390; 50–391; 50–259; 50–260; 50–296; 50–327; 50–328; License Nos. NPF–90; NPF–96; DPR–33; DPR–52; DPR–68; DPR–77; DPR–79; EA–17–022; NRC–2017–0172]**

**In the Matter of U.S. Tennessee Valley Authority, Watts Bar Nuclear Plant; Browns Ferry Nuclear Plant; and Sequoyah Nuclear Plant**

**CONFIRMATORY ORDER**

**(EFFECTIVE UPON ISSUANCE)**

**I**

U.S. Tennessee Valley Authority (TVA or Licensee) is the holder of Operating License Nos. NPF–90; and NPF–96; DPR–33; DPR–52; DPR–68; DPR–77; and DPR–79; issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR). The licenses authorize the operation of the Watts Bar Nuclear Plant (WBN) Units 1 and 2, Browns Ferry Nuclear Plant, Units 1, 2 and 3, and Sequoyah Nuclear Plant, Units 1 and 2, in accordance with conditions specified therein. These facilities are located in Spring City, Tennessee, Athens, Alabama, and Soddy Daisy, Tennessee, respectively.

This Confirmatory Order (CO) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on June 9, 2017.

**II**

On December 1, 2016, the U. S. Nuclear Regulatory Commission (NRC) completed a Problem Identification and Resolution inspection at TVA's Watts Bar Nuclear Plant (WBN), Units 1 and 2 (Inspection Report 05000390/2016013, 05000391/2016013, ML17069A133). The results of the inspection were transmitted to TVA by letter dated March 10, 2017, and included the identification of one Apparent Violation (AV) of a previously issued CO, (EA–09–009,203, dated December 22, 2009, ML093510993). The AV involved the following:

Confirmatory Order Modifying License, (EA–09–009,203) dated December 22, 2009, (ML093510993) states, in part, that by no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA's nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the Safety Conscious Work Environment (SCWE). Such a process should consider actions to mitigate a potential chilling effect if the employment action, despite its legitimacy, could be perceived as retaliatory by the workforce.

Additionally, by no later than one hundred twenty (120) calendar days after the issuance of the Confirmatory Order, TVA shall implement a process to review proposed significant adverse employment actions by contractors performing services at TVA's nuclear plant sites before the actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed action could negatively impact the SCWE. Such a process will likewise consider actions to mitigate a potential chilling effect if the employment action, despite its legitimacy, could be perceived as retaliatory by the workforce.

TVA implements the above process through procedure NPG–SPP–11.10, Adverse Employment Action. NPG–SPP–11.10, Section 3.2.2, entitled ''Review Process—Personnel Actions Impacting TVA Employees,'' paragraph D, states that the ''Vice President (or designee) will complete section 3, Vice President Record of Action of form 41175'' (attachment 2 to NPG–SPP–11.10). Form 41175, entitled ''TVA

41175 Adverse Employment Action Review'', states that ''the purpose of the review is to ensure that proposed actions: (1) are warranted; (2) do not occur because an individual has engaged in a protected activity; and (3) do not create the perception that persons were retaliated against because they engaged in a protected activity.''

Additional actions are delineated in NPG–SPP–11.10 Sections 3.2.2, subsections A, B, C, E, F, G, related to the positions of the Vice President, Line Manager and the Human Resource Representative, and in Section 3.2.3, entitled ''Review Process—Personnel Actions Impacting Contractors.''

Contrary to the above, from November 2014 to August 2016, TVA failed to comply with Confirmatory Order (EA–09–009,203), in that WBN: (1) failed to implement a process to review proposed licensee adverse employment actions at WBN before actions were taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE; and (2) failed to implement a process to review proposed significant adverse employment actions by contractors performing services at TVA's nuclear plant sites before the actions were taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed action could negatively impact the SCWE. WBN failed to comply with the CO because the site failed to implement procedure NPG–SPP–11.10, ''Adverse Employment Action.'' Specifically, the Vice President (or designee) failed to complete Form 41175, entitled ''TVA 41175 Adverse Employment Action Review'' as required by Section 3.2.3.D, for multiple adverse employment actions taken against TVA and contractor personnel during this time period. Additionally, the Vice President, Line Management, and HR Representatives did not perform procedural steps that were required by procedure NPG–SPP–11.10, subsection 3.2.2.A, B, C, E, F, and G, and in Section 3.2.3.

In response to the NRC's inspection report of March 10, 2017, TVA advised of its desire to participate in the Agency's ADR program to resolve the enforcement aspects of this matter.

## III

On June 9, 2017, the NRC and TVA met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This CO is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and TVA agreed that the issue described above represents a violation of regulatory requirements. The NRC and TVA agree that the violation is a significant matter.

2. Based on a review of the incident, TVA completed a number of corrective actions and enhancements to preclude recurrence of the violation including, but not limited to, the following:

a. Performance of a Level I Root Cause Analysis (RCA), COC condition report (CR) 1271309, WBN Failure to Implement Adverse Employment Action Process, dated May 26, 2017, which identified direct, root, and contributing causes of the violation. The RCA also included an extent of condition review, an extent of cause review, and identified specific corrective actions that were entered into TVA's Corrective Action Program. TVA concluded that the causes and corrective actions are applicable to all TVA nuclear sites.

b. TVA took immediate actions to reinforce the requirements in the Adverse Employment Action process to TVA Nuclear Suppliers and Contractors and to TVA Contract Technical Stewards (CTS).

c. Establishment of an Executive Review Board (ERB) process to review procedurally specified personnel actions to ensure that actions do not constitute retaliation based on employee personal participation in protected activities. The ERB process and procedure was informed by benchmarking other organizations in the nuclear industry. The ERB may be advised by representatives from human resources, legal and ECP as appropriate, so that ERB is informed if the subject employee has engaged in any known relevant protected activity.

d. TVA communicated the following to nuclear employees, via a written Fleet Focus memo from the Chief Nuclear Officer, entitled ''Key Revisions to Adverse Employment Action Procedure,'' dated June 6, 2017: a summary of the AV, the results of TVA's root cause analysis, purpose of the Adverse Action process, planned actions to correct the process, and expectations for managers to consider the impact of an adverse action on the organizational SCWE and need to communicate effectively to employees.

e. TVA hired an experienced Executive Safety Culture Advisor, to review and observe activities at TVA through December 31, 2017. This consultant is contracted to conduct leadership observations and provide insights to TVA executives regarding leadership behaviors to continue to improve TVA's nuclear safety culture and SCWE.

f. TVA hired a third-party, independent consultant to perform a comprehensive nuclear safety culture assessment at Watts Bar Nuclear Plant in order to assess the Nuclear Safety Culture and Safety Conscious Work Environment programs.

3. Based on TVA's review of the incident and NRC's concerns with respect to precluding recurrence of the violation, TVA agrees to implement the following corrective actions and enhancements:

a. Communication

1) By no later than three months after issuance of the CO, the TVA Chief Nuclear Executive Officer (CNO) shall:

a) Inform all working status TVA nuclear first line supervisory employees and above, as of the date of this CO, about employee protections and the need to maintain an environment free from even the appearance of retaliation or discrimination.

b) As a followup to the written communication issued by the CNO on June 6, 2017, conduct a video briefing by the CNO for all working status TVA nuclear employees and contractors who perform NRC regulated activities, describing the following: 1) reason why TVA's implementation of the Adverse Employment Action process as required by the 2009 CO had not been fully effective, 2) a brief summary regarding the background and reason the Adverse Employment Action Process exists, 3) summary of the NRC's concerns expressed in the March 2017 Inspection Report, 4) the corrective actions both taken and planned to restore TVA's compliance, and 5) informing employees of the possible avenues (including to the NRC) that they have to raise concerns as outlined in TVA–SPP–11.8.4, Expressing Concerns and Differing Views. TVA shall make this video briefing available to the NRC.

c) Document that all working status TVA nuclear employees and contractors who perform NRC regulated activities (i.e. individuals who work on safety-related structures, systems, and components) as of the date of this CO have received the one time video briefing, which will also require responses to one or more questions to document employee understanding in order to receive credit for the training.

d) Each site Vice President shall conduct an All Hands meeting at each

TVA nuclear site. During the meeting employees will be allowed the opportunity to provide feedback and ask questions of management related to the communications listed above.

2) By no later than four months after issuance of the CO, TVA shall ensure that its nuclear safety culture and safety conscious work environment policies and guidance (e.g., procedures), are in place, updated, and consistent with: 1) the NRC's March 2011 Safety Culture Policy Statement and associated traits described within; and 2) the NRC's May 1996 Safety Conscious Work Environment Policy Statement; and are informed by: 1) the NRC's Regulatory Issue Summary 2005–18, ''Guidance for Establishing and Maintaining a Safety Conscious Work Environment''; and 2) the industry's common language initiative (i.e. , INPO 12–012, Revision 1, April 2013).

a) TVA shall make updated policies and guidance available to the NRC, and

b) TVA will make updated policies and guidance available to employees, and inform employees where related materials are located.

3) By no later than six months after issuance of the CO, a Senior TVA manager shall share the company's experiences and insights with respect to the importance of properly implementing an Adverse Employment Action process, including lessons learned and actions taken by TVA, in a presentation to other nuclear utilities at an industry meeting.

b. Training

1) By no later than three months after the issuance of the CO, TVA shall acquire an independent third party who is experienced with NRC employee protection regulations (10 CFR 50.7, Section 211 of the Energy Reorganization Act, as amended), and nuclear safety culture and safety conscious work environment policies to assist TVA in development of initial and refresher training on employee protection and safety conscious work environment.

a) Training shall include:

i) case study examples of discriminatory practices as well as examples related to the adverse action process implementation.

ii) the definition of key terms included in employee protection regulations, nuclear safety culture and safety conscious work environment policy statements, and be informed by the industry's common language initiative (e.g., nuclear safety issue, protected activity, adverse action, nuclear safety culture traits).

iii) behavioral expectations for demonstrating support for raising nuclear safety and quality concerns without fear of retaliation, and available avenues for raising concerns.

iv) how to properly implement the adverse employment action process including at a minimum discussion on the following:

(1) Disciplinary action is not taken as a result of an employee's engagement in activities protected by the employee protection regulations of 10 CFR 50.7;

(2) Determination if the action could be perceived as negatively impacting any individual or organizational aspect of Safety Conscious Work Environment, cause a potential chilling effect or be perceived as retaliatory, independent of discipline legitimacy.

b) The training material shall be available to the NRC upon request.

c) Training records shall be retained consistent with applicable TVA record retention policies and be made available to the NRC upon request.

2) The training will be provided within one year and on an annual basis thereafter, to, at a minimum, all working status nuclear business group supervisory employees, contractor supervisory employees involved in nuclear related work activities, human resource staff involved in the adverse employment action process, employee concerns program staff, contract technical stewards for nuclear related work activities, and the personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities.

(3) New supervisory employees shall complete initial training through in-person or computer based training, within three months of their hire or promotion effective date. The training shall require, at a minimum, a discussion of the training material with personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities.

(4) The initial training for personnel specified in III.3.b.2 who work at WBN and personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities shall be conducted in-person by the independent third-party. Initial training for the other employees specified in III.3.b.2 and subsequent refresher training shall be conducted by personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities.

c. Work Processes

(1) By no later than six months after the issuance of the CO, TVA shall maintain a uniform process to ensure independent management review of all proposed adverse actions in accordance with the procedure. This process shall be executed by an ERB chaired by a TVA Vice President or above. The ERB shall, at a minimum, review proposed adverse employment actions to include suspensions (one or more days off without pay), terminations for cause, involuntary reduction in force, and no-fault terminations of employment.

(2) By no later than three months after the issuance of the CO, TVA shall revise the Adverse Employment Action procedure to require all adverse employment actions, as described in III.3.c.1), to be reviewed for potential effects on the safety conscious work environment, regardless of whether the employee engaged in a protected activity.

(3) By no later than three years after the issuance of the CO, TVA shall perform in-person benchmarking of at least two external organizations in the nuclear industry with developed adverse employment action processes, specifically including ERBs.

(4) Develop individual performance appraisal assessment criteria for nuclear vice presidents and plant managers, to evaluate if these individuals are meeting expectations with regard to employee protection, nuclear safety culture, and safety conscious work environment for their respective organizations. The assessment criteria and results of the evaluation shall be documented in their performance appraisals for the 2017, 2018, and 2019 performance review cycles.

(5) Within six months following issuance of the CO, TVA shall revise Nuclear Safety Culture Monitoring guidance to incorporate a requirement for the Senior Leadership Team to conduct a review of Adverse Employment Actions to identify potential trends that could impact an organization's nuclear safety culture.

(6) By no later than three months after issuance of the CO, TVA shall reinforce through a written fleet communication that personnel who may have engaged in work associated with NRC-regulated activities departing the company have the opportunity to participate in an Employee Concerns Program Exit Interview/Survey to facilitate identification of nuclear safety issues and identifying resulting trends and conclusions as part of the TVA Employee Checkout process.

(7) By no later than six months after issuance of the CO, TVA shall establish procedural guidance for a safety culture peer team outlining additional oversight specifically focused on fleet wide safety

culture performance and safety conscious work environment at all TVA nuclear locations.

(a) The peer team will assess, at least twice a year, the nuclear safety culture trends in process inputs that could be early indications of a nuclear safety culture weakness.

(b) The peer team guidance shall be informed by guidance in NEI's 09–07, Revision 1, Fostering a Healthy Nuclear Safety Culture.

(c) The initial implementation of the peer team will be advised by an external consultant with extensive nuclear experience.

d. Independent Oversight

(1) Beginning in 2017, an independent third-party shall perform quarterly audits for the first year after the date of issuance of the CO, and semi-annually for the next two years, of the adverse employment action process to evaluate whether TVA is in compliance with the Adverse Employment Action Process. The independent person/group shall be experienced with NRC employee protection regulations (10 CFR 50.7, Section 211 of the Energy Reorganization Act, as amended), nuclear safety culture and safety conscious work environment, and ERBs. The third-party chosen to audit the adverse action process must be independent of TVA, and must have had no direct, previous involvement with implementation of the adverse employment action process at TVA. The audit shall include reviewing all adverse employment actions, periodically attending ERBs, reviewing chilling effect mitigation plans, and providing recommendations as appropriate. The audit shall evaluate whether the process is effective at determining whether adverse employment actions comport with employee protection regulations, whether adverse employment actions could negatively impact the SCWE, and developing plans to mitigate the potential chilling effects of adverse employment actions. The third-party shall report all findings and recommendations from the audits to the CNO. The audits shall be available for NRC review. This shall remain in effect for three years after issuance of the CO.

(2) By no later than three months after the issuance of the CO, TVA shall modify its process for conducting pulsing surveys such that it is informed by the adverse action process. Pulsing surveys shall be conducted, as appropriate, shortly after a SCWE mitigation plan has been implemented to assess whether additional mitigation actions are necessary.

e. Assess and Monitor Nuclear Safety Culture and Safety Conscious Work Environment

(1) An independent nuclear safety culture (NSC) assessment, consistent with industry practices, shall be conducted at WBN in 2017. Within one year of issuance of the CO, TVA shall perform an independent NSC assessment consistent with industry practices, at Browns Ferry Nuclear Plant, Sequoyah Nuclear Plant and Corporate Nuclear. One additional independent NSC assessment shall be performed at each site, within approximately two years of the first assessment at that site. TVA shall compare the result of the assessment with prior years' survey results in an effort to identify trends. TVA shall evaluate the results and develop, implement, and track to completion corrective actions to address weaknesses identified through the assessments. TVA shall make the results of each survey and the planned corrective actions available for NRC review after the development of the planned corrective actions.

(2) TVA shall maintain a nuclear safety culture monitoring panel, informed by the guidance in NEI's 09–07, Revision 1, Fostering a Healthy Nuclear Safety Culture.

(3) By no later than three months after the issuance of the CO, TVA shall develop initial and refresher training for members of the nuclear safety culture monitoring panel. The initial and refresher training shall be developed by an independent third-party familiar with nuclear safety culture, and include behavioral indicators of a declining safety culture, as well as actions to address a declining safety culture.

f. Other

(1) TVA's RCA identified a contributing cause (CC–03) of the violation to involve a deficiency in its holistic framework for managing COs. To preclude recurrence of the violation related to this contributing cause, TVA agrees to the following corrective actions:

(a) Within four months of issuance of the CO, TVA shall conduct a review of all previously issued COs.

(i) The review shall entail:

(1) an assessment of the safety impact of CC–03 on the nuclear fleet;

(2) an evaluation of compliance with previously issued COs,

(3) identification of periods of time when TVA was not in compliance with previously issued COs,

(4) corrective actions taken and planned and timeline to restore compliance, and corrective actions taken and planned to preclude recurrence.

(ii) TVA shall submit the results of the review to the NRC within one month of completion of the review.

(b) Within six months of issuance of the CO, TVA shall revise corporate and site procedures, as appropriate, to ensure that current and future CO requirements continue to be met.

(c) Three years after issuance of the CO (+/− 3 months), TVA will perform an assessment of the effectiveness of corrective actions taken in response to CC–03. Any identified violations or other deficiencies will be incorporated into the Corrective Action Program (CAP). This assessment will be made available for NRC review.

4. Upon completion of the terms of items of the CO, TVA will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

5. The NRC considers the corrective actions and enhancements discussed in Items III.2 and III.3 above to be appropriately prompt and comprehensive to address the causes which gave rise to the incident discussed in the NRC's IR of March 10, 2017.

6. The NRC and TVA agree that the above elements will be incorporated into issuance of a CO.

7. In consideration of the commitments delineated above, the NRC agrees to refrain from proposing a civil penalty or issuing a Notice of Violation, for all matters discussed in the NRC's IR to TVA dated March 10, 2017 (EA–17–022).

8. This agreement is binding upon successors and assigns of TVA.

On July 21, 2017, TVA consented to issuance of this Order with the commitments, as described in Section V below. TVA further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

**IV**

Because TVA has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this CO.

I find that TVA's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments, the public health and

safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that TVA's commitments be confirmed by this Order. Based on the above and TVA's consent, this CO is effective upon issuance.

**V**

Accordingly, pursuant to Sections 104b., 161b., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, IT IS HEREBY ORDERED, THAT LICENSE NOS. NPF–90, NPF–96, DPR–33, DPR–52, DPR–68, DPR–77, AND DPR–79 IS MODIFIED FOLLOWS:

1. TVA agrees to implement the following corrective actions and enhancements:

a. Communication

(1) By no later than three months after issuance of the CO, the TVA CNO shall:

(a) Inform all working status TVA nuclear first line supervisory employees and above, as of the date of this CO, about employee protections and the need to maintain an environment free from even the appearance of retaliation or discrimination.

(b) As a follow up to the written communication issued by the CNO on June 6, 2017, conduct a video briefing by the CNO for all working status TVA nuclear employees and contractors who perform NRC regulated activities, describing the following: (1) reason why TVA's implementation of the Adverse Employment Action process as required by the 2009 CO had not been fully effective, (2) a brief summary regarding the background and reason the Adverse Employment Action Process exists, (3) summary of the NRC's concerns expressed in the March 2017 Inspection Report, (4) the corrective actions both taken and planned to restore TVA's compliance, and (5) informing employees of the possible avenues (including to the NRC) that they have to raise concerns as outlined in TVA–SPP–11.8.4, Expressing Concerns and Differing Views. TVA shall make this video briefing available to the NRC.

(c) Document that all working status TVA nuclear employees and contractors who perform NRC regulated activities (i.e. individuals who work on safety-related structures, systems, and components) as of the date of this CO have received the one time video briefing, which will also require responses to one or more questions to document employee understanding in order to receive credit for the training.

(d) Each site Vice President shall conduct an All Hands meeting at each TVA nuclear site. During the meeting employees will be allowed the opportunity to provide feedback and ask questions of management related to the communications listed above.

(2) By no later than four months after issuance of the CO, TVA shall ensure that its nuclear safety culture and safety conscious work environment policies and guidance (e.g., procedures), are in place, updated, and consistent with: 1) the NRC's March 2011 Safety Culture Policy Statement and associated traits, described within; and 2) the NRC's May 1996 Safety Conscious Work Environment Policy Statement; and are informed by: 1) the NRC's Regulatory Issue Summary 2005–18, ''Guidance for Establishing and Maintaining a Safety Conscious Work Environment''; and 2) the industry's common language initiative (i.e. , INPO 12- 012, Revision 1, April 2013).

(a) TVA shall make updated policies and guidance available to the NRC, and

(b) TVA will make updated policies and guidance available to employees, and inform employees where related materials are located.

(3) By no later than six months after issuance of the CO, a Senior TVA manager shall share the company's experiences and insights with respect to the importance of properly implementing an Adverse Employment Action process, including lessons learned and actions taken by TVA, in a presentation to other nuclear utilities at an industry meeting.

b. Training

(1) By no later than three months after the issuance of the CO, TVA shall acquire an independent third party who is experienced with NRC employee protection regulations (10 CFR 50.7, Section 211 of the Energy Reorganization Act, as amended), and nuclear safety culture and safety conscious work environment policies to assist TVA in development of initial and refresher training on employee protection and safety conscious work environment.

(a) Training shall include:

(i) case study examples of discriminatory practices as well as examples related to the adverse action process implementation.

(ii) the definition of key terms included in employee protection regulations, nuclear safety culture and safety conscious work environment policy statements, and be informed by the industry's common language initiative (e.g., nuclear safety issue, protected activity, adverse action, nuclear safety culture traits).

(iii) behavioral expectations for demonstrating support for raising nuclear safety and quality concerns without fear of retaliation, and available avenues for raising concerns.

(iv) how to properly implement the adverse employment action process including at a minimum discussion on the following:

(1) Disciplinary action is not taken as a result of an employee's engagement in activities protected by the employee protection regulations of 10 CFR 50.7;

(2) Determination if the action could be perceived as negatively impacting any individual or organizational aspect of Safety Conscious Work Environment, cause a potential chilling effect or be perceived as retaliatory, independent of discipline legitimacy.

(b) The training material shall be available to the NRC upon request.

(c) Training records shall be retained consistent with applicable TVA record retention policies and be made available to the NRC upon request.

(2) The training will be provided within one year and on an annual basis thereafter, to, at a minimum, all working status nuclear business group supervisory employees, contractor supervisory employees involved in nuclear related work activities, human resource staff involved in the adverse employment action process, employee concerns program staff, contract technical stewards for nuclear related work activities, and the personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities.

(3) New supervisory employees shall complete initial training through in-person or computer based training within three months of their hire or promotion effective date. The training shall require, at a minimum, a discussion of the training material with personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities.

(4) The initial training for personnel specified in V.1.b.2 who work at Watts Bar and personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities shall be conducted in-person by the independent third-party. Initial training for the other employees specified in V.1.b.2 and subsequent refresher training shall be conducted by personnel in the TVA Office of General Counsel who are engaged in nuclear related work activities.

c. Work Processes

(1) By no later than six months after the issuance of the CO, TVA shall maintain a uniform process to ensure

independent management review of all proposed adverse actions in accordance with the procedure. This process shall be executed by an ERB chaired by a TVA Vice President or above. The ERB shall, at a minimum, review proposed adverse employment actions to include suspensions (one or more days off without pay), terminations for cause, involuntary reduction in force, and no-fault terminations of employment.

(2) By no later than three months after the issuance of the CO, TVA shall revise the Adverse Employment Action procedure to require all adverse employment actions, as described in V.1.c.1), to be reviewed for potential effects on the safety conscious work environment, regardless of whether the employee engaged in a protected activity.

(3) By no later than three years after the issuance of the CO, TVA shall perform in-person benchmarking of at least two external organizations in the nuclear industry with developed adverse employment action processes, specifically including ERBs.

(4) Develop individual performance appraisal assessment criteria for nuclear vice presidents and plant managers, to evaluate if these individuals are meeting expectations with regard to employee protection, nuclear safety culture, and safety conscious work environment for their respective organizations. The assessment criteria and results of the evaluation shall be documented in their performance appraisals for the 2017, 2018, and 2019 performance review cycles.

(5) Within six months following issuance of the CO, TVA shall revise Nuclear Safety Culture Monitoring guidance to incorporate a requirement for the Senior Leadership Team to conduct a review of Adverse Employment Actions to identify potential trends that could impact an organization's nuclear safety culture.

(6) By no later than three months after issuance of the CO, TVA shall reinforce through a written fleet communication that personnel who may have engaged in work associated with NRC-regulated activities departing the company have the opportunity to participate in an Employee Concerns Program Exit Interview/Survey to facilitate identification of nuclear safety issues and identifying resulting trends and conclusions as part of the TVA Employee Checkout process.

(7) By no later than six months after issuance of the CO, TVA shall establish procedural guidance for a safety culture peer team outlining additional oversight specifically focused on fleet wide safety culture performance and safety conscious work environment at all TVA nuclear locations.

(a) The peer team will assess, at least twice a year, the nuclear safety culture trends in process inputs that could be early indications of a nuclear safety culture weakness.

(b) The peer team guidance shall be informed by guidance in NEI's 09–07, Fostering a Healthy Nuclear Safety Culture, Rev. 1.

(c) The initial implementation of the peer team will be advised by an external consultant with extensive nuclear experience.

d. Independent Oversight

(1) Beginning in 2017, an independent third-party shall perform quarterly audits for the first year after the date of issuance of the CO, and semi-annually for the next two years, of the adverse employment action process to evaluate whether TVA is in compliance with the Adverse Employment Action Process. The independent person/group shall be experienced with NRC employee protection regulations (10 CFR 50.7, Section 211 of the Energy Reorganization Act, as amended), nuclear safety culture and safety conscious work environment, and ERBs. The third-party chosen to audit the adverse action process must be independent of TVA, and must have had no direct, previous involvement with implementation of the adverse employment action process at TVA. The audit shall include reviewing all adverse employment actions, periodically attending ERBs, reviewing chilling effect mitigation plans, and providing recommendations as appropriate. The audit shall evaluate whether the process is effective at determining whether adverse employment actions comport with employee protection regulations, whether adverse employment actions could negatively impact the SCWE, and developing plans to mitigate the potential chilling effects of adverse employment actions. The third-party shall report all findings and recommendations from the audits to the CNO. The audits shall be available for NRC review. This shall remain in effect for three years after issuance of the CO.

(2) By no later than three months after the issuance of the CO, TVA shall modify its process for conducting pulsing surveys such that it is informed by the adverse action process. Pulsing surveys shall be conducted, as appropriate, shortly after a SCWE mitigation plan has been implemented to assess whether additional mitigation actions are necessary.

e. Assess and Monitor Nuclear Safety Culture and Safety Conscious Work Environment

(1) An independent nuclear safety culture (NSC) assessment, consistent with industry practices, shall be conducted at WBN in 2017. Within one year of issuance of the CO, TVA shall perform an independent NSC assessment consistent with industry practices, at Browns Ferry Nuclear Plant, Sequoyah Nuclear Plant, and Corporate Nuclear. One additional NSC assessment shall be performed at each site, within approximately two years of the first assessment at that site. TVA shall compare the result of the assessment with prior years' survey results in an effort to identify trends. TVA shall evaluate the results and develop, implement, and track to completion corrective actions to address weaknesses identified through the assessments. TVA shall make the results of each survey and the planned corrective actions available for NRC review after the development of the planned corrective actions.

(2) TVA shall maintain a nuclear safety culture monitoring panel, informed by the guidance in NEI's 09–07, Revision 1, Fostering a Healthy Nuclear Safety Culture.

(3) By no later than three months after the issuance of the CO, TVA shall develop initial and refresher training for members of the nuclear safety culture monitoring panel. The initial and refresher training shall be developed by an independent third-party familiar with nuclear safety culture, and include behavioral indicators of a declining safety culture, as well as actions to address a declining safety culture.

f. Other

(1) TVA's RCA identified a contributing cause (CC–03) of the violation to involve a deficiency in its holistic framework for managing COs. To preclude recurrence of the violation related to this contributing cause, TVA agrees to the following corrective actions:

(a) Within four months of issuance of the CO, TVA shall conduct a review of all previously issued COs. TVA shall submit the results of the review to the NRC within one month of completion of the review. The review shall entail:

(i) an assessment of the safety impact of CC–03 on the nuclear fleet;

(ii) an evaluation of compliance with previously issued COs,

(iii) periods of time when TVA was not in compliance with previously issued COs,

(iv) corrective actions taken and planned and timeline to restore

compliance, and corrective actions taken and planned to preclude recurrence.

(b) Within six months of issuance of the CO, TVA shall revise corporate and site procedures, as appropriate, to ensure that current and future CO requirements continue to be met.

(c) Three years after issuance of the CO (+/− 3 months), TVA will perform an assessment of the effectiveness of corrective actions taken in response to CC–03. Any identified violations or other deficiencies will be incorporated into the CAP. This assessment will be made available for NRC review.

(2) Upon completion of the terms of items of the CO, TVA will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

(3) The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by TVA of good cause.

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than TVA, may request a hearing within 30 calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *https://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the EIE System. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *https://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC Web site at *https://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than TVA) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Atlanta, Georgia, this 27th day of July, 2017.

For the Nuclear Regulatory Commission.

**Leonard D. Wert,**

*Deputy Regional Administrator for Operations.*

[FR Doc. 2017–16178 Filed 7–31–17; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2017–0169]**

## Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Biweekly notice.

**SUMMARY:** Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from July 4, 2017 to July 17, 2017. The last biweekly notice was published on July 18, 2017.

**DATES:** Comments must be filed by August 31, 2017. A request for a hearing must be filed by October 2, 2017.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0169. 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:* Cindy Bladey, Office of Administration, Mail Stop: TWFN–8–D36M, 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:** Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

#### *A. Obtaining Information*

Please refer to Docket ID NRC–2017–0169, facility name, unit number(s), plant docket number, application date, and subject, 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–2017–0169.
- *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### *B. Submitting Comments*

Please include Docket ID NRC–2017–0169, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination**

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

*A. Opportunity To Request a Hearing and Petition for Leave To Intervene*

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within

its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

*B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing

information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

*Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland*

*Exelon Generation Company, LLC, Docket No. 72–8, Calvert Cliffs Independent Spent Fuel Storage Installation, Calvert County, Maryland*

*Exelon Generation Company, LLC, Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2, Oswego County, New York*

*Exelon Generation Company, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York*

*Date of amendment request:* May 31, 2017. A publicly-available version is in ADAMS under Package Accession No. ML17164A149.

*Description of amendment request:* The amendments would revise the emergency plans for each facility by changing the emergency action level (EAL) schemes. The proposed changes are based on the Nuclear Energy Institute's (NEI's) guidance in NEI 99–01, Revision 6, ''Development of Emergency Action Levels for Non-Passive Reactors,'' which was endorsed by the NRC by letter dated March 28, 2013 (ADAMS Accession No. ML12346A463).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to Exelon's EAL schemes to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not reduce the capability to meet the emergency planning requirements established in 10 CFR 50.47 and 10 CFR part 50, appendix E. The proposed changes do not reduce the functionality, performance, or capability of Exelon's ERO [emergency response organization] to respond in mitigating the consequences of any design basis accident. The probability of a reactor accident requiring implementation of Emergency Plan EALs has no relevance in determining whether the proposed changes to the EALs reduce the effectiveness of the Emergency Plans. As discussed in Section D, ''*Planning Basis,*'' of NUREG–0654, Revision 1, ''*Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants*'';

. . . The overall objective of emergency response plans is to provide dose savings (and in some cases immediate life saving) for a spectrum of accidents that could produce offsite doses in excess of Protective Action Guides (PAGs). No single specific accident sequence should be isolated as the one for which to plan because each accident could have different consequences, both in nature and degree. Further, the range of possible selection for a planning basis is very large, starting with a zero point of requiring no planning at all because significant offsite radiological accident consequences are unlikely to occur, to planning for the worst possible accident, regardless of its extremely low likelihood. . . .

Therefore, Exelon did not consider the risk insights regarding any specific accident initiation or progression in evaluating the proposed changes.

The proposed changes do not involve any physical changes to plant equipment or systems, nor do they alter the assumptions of any accident analyses. The proposed changes do not adversely affect accident initiators or precursors nor do they alter the design assumptions, conditions, and configuration or the manner in which the plants are operated and maintained. The proposed changes do not adversely affect the ability of Structures, Systems, or Components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to Exelon's EAL schemes to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not involve any physical changes to plant systems or equipment. The proposed changes do not involve the addition of any new plant equipment. The proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. All Exelon ERO functions will continue to be performed as required. The proposed changes do not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from those that have been previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to Exelon's EAL schemes to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not alter or exceed a design basis or safety limit. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes.

There are no changes to setpoints or environmental conditions of any SSC or the manner in which any SSC is operated. Margins of safety are unaffected by the proposed changes to adopt the NEI 99–01, Revision 6 EAL scheme guidance. The applicable requirements of 10 CFR 50.47 and 10 CFR part 50, appendix E will continue to be met.

Therefore, the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* David J. Wrona.

*Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station (DNPS), Units 2 and 3, Grundy County, Illinois*

*Date of amendment request:* May 3, 2017. A publicly-available version is in ADAMS under Accession No. ML17123A104.

*Description of amendment request:* The proposed amendment would revise the DNPS, Units 2 and 3, technical specifications by replacing the existing specifications related to Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program,'' with a reference to Nuclear Energy Institute (NEI) 94–01, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, appendix J,'' Revision 3–A, and the conditions and limitations specified in NEI 94–01, Revision 2–A, as the documents used by DNPS to implement the performance-based leakage testing program in accordance with Option B of 10 CFR part 50, appendix J.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed activity involves revision of the Dresden Nuclear Power Station (DNPS) Technical Specification (TS) 5.5. 12. ''Primary Containment Leakage Rate Testing Program,'' to allow the extension of the DNPS, Units 2 and 3. Type A containment integrated leakage rate test (ILRT) interval to

15 years, and the extension of the Type C local leakage rate test interval to 75 months. The current Type A test interval of 120 months (i.e., 10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The existing Type C test interval of 60 months for selected components would be extended on a performance basis to no longer than 75 months. Extensions of up to nine months (i.e., total maximum interval of 84 months for Type C tests) are permissible only for non-routine emergent conditions.

The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such,the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident.

The change in dose risk for changing the Type A, ILRT interval from three-per-ten years to once-per-fifteen-years, measured as an increase to the total integrated dose risk for all internal events accident sequences for DNPS, is 4.26E–02 person-roentgen equivalent man (rem)/year (0.27 percent (%)) using the Electric Power Research Institute (EPR) guidance with the base case corrosion included. The change in dose risk drops to 1.14E–02 person-rem/year (i.e., 0.07%) when using the EPRI Expert Elicitation methodology. The values calculated per the EPRI guidance are all lower than the acceptance criteria of less than or equal to 1.0 person-rem/year or less than 1.0% person-rem/year defined in Section 1.3 of Attachment 3 to this LAR (license amendment request).

Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

As documented in NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' dated January 1995, Types B and C tests have identified a very large percentage of containment leakage paths, and the percentage of containment leakage paths that are detected only by Type A testing is very small. The DNPS, Units 2 and 3 Type A test history supports this conclusion.

The integrity of the containment is subject to two types of failure mechanisms that can be categorized as: (1) Activity based, and, (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the containment combined with the containment inspections performed in accordance with American Society of Mechanical Engineers (ASME) Section XI, and TS requirements serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by a Type A test. Based on the above, the proposed test interval extensions do not significantly increase the consequences of an accident previously evaluated.

The proposed amendment also deletes an exception previously granted in License Amendments Nos. 210 and 202 for DNPS, Units 2 and 3, respectively, to allow one-time extensions of the ILRT test frequency. This exception was for an activity that has already taken place; therefore, this deletion is solely a non-technical, editorial change that does not result in any alteration in how DNPS, Units 2 and 3 are operated.

Therefore, the proposed change does not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed amendment to TS 5.5.12 involves the extension of the DNPS, Units 2 and 3 Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident.

The proposed change does not involve a physical modification to the plant (*i.e.,* no new or different type of equipment will be installed), nor does it alter the design, configuration, or change the manner in which the plant is operated or controlled beyond the standard functional capabilities of the equipment.

The proposed amendment also deletes an exception previously granted under TS License Amendment Nos. 210 and 202 for Units 2 and 3, respectively to allow one-time extensions of the ILRT test frequency. This exception was for an activity that has already taken place; therefore, this deletion is solely a non-technical, editorial change that does not result in any alteration in how DNPS, Units 2 and 3 are operated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated for DNPS, Units 2 and 3.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment to TS 5.5.12 involves the extension of the DNPS, Units 2 and 3 Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months for selected components. This amendment does not alter the manner in which safety limits, limiting safety system set points, or limiting conditions for operation are determined. The specific requirements and conditions of the TS Containment Leak Rate Testing Program exist to ensure that the degree of containment structural integrity and leak-tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves the extension of the interval between Type A containment leak rate tests and Type C tests for DNPS, Units 2 and 3. The proposed surveillance interval extension is bounded by the 15-year ILRT interval and the 75-month Type C test interval currently authorized within NEI 94–01, Revision 3–A. Industry experience supports the conclusion that Types B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Code, Section Xl and TS serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Types A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met, with the acceptance of this proposed change, since these are not affected by changes to the Type A and Type C test intervals.

The proposed amendment also deletes an exception previously granted under TS License Amendments Nos. 210 and 202 for Units 2 and 3, respectively to allow one-time extensions of the ILRT test frequency for DNPS, Units 2 and 3. This exception was for an activity that has taken place; therefore, the deletion is solely a non-technical, editorial change that does not result in any alteration in how DNPS, Units 2 and 3 are operated and maintained. Thus, there is no reduction in any margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* David J. Wrona.

*Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York*

*Date of amendment request:* May 31, 2017. A publicly-available version is in ADAMS under Accession No. ML17151A214.

*Description of amendment request:* The amendment would revise the Nine Mile Point Nuclear Station, Unit 2, Technical Specifications, to allow operation of ventilation systems with charcoal filters in accordance with Technical Specifications Task Force

(TSTF) Improved Standard Technical Specifications Change Traveler, TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month'' (ADAMS Accession No. ML100890316).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change replaces an existing Surveillance Requirement to operate the SGT [Standby Gas Treatment] System and CREF [Control Room Envelope Filtration] Systems equipped with electric heaters for a continuous 10-hour period every 31 days with a requirement to operate the systems for 15 continuous minutes with heaters operating, if needed.

These systems are not accident initiators, and therefore, these changes do not involve a significant increase in the probability of an accident. The proposed system and filter testing changes are consistent with current regulatory guidance for these systems and will continue to assure that these systems perform their design function which may include mitigating accidents. Thus, the change does not involve a significant increase in the consequences of an accident.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change replaces an existing Surveillance Requirement to operate the SGT System and CREF Systems equipped with electric heaters for a continuous 10-hour period every 31 days with a requirement to operate the systems for 15 continuous minutes with heaters operating, if needed.

The change proposed for these ventilation systems does not change any system operations or maintenance activities. Testing requirements will be revised and will continue to demonstrate that the Limiting Conditions for Operation are met and the system components are capable of performing their intended safety functions. The change does not create new failure modes or mechanisms and no new accident precursors are generated.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change replaces an existing Surveillance Requirement to operate the SGT System and CREF Systems equipped with electric heaters for a continuous 10-hour period every 31 days with a requirement to operate the systems for 15 continuous minutes with heaters operating, if needed.

The design basis for the ventilation systems' heaters is to heat the incoming air which reduces the relative humidity. The heater testing change proposed will continue to demonstrate that the heaters are capable of heating the air and will perform their design function. The proposed change is consistent with regulatory guidance.

Therefore, it is concluded that this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* James G. Danna.

*Exelon Generation Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania*

*Date of amendment request:* March 22, 2017. A publicly-available version is in ADAMS under Accession No. ML17081A425.

*Description of amendment request:* The amendment would make administrative changes to Three Mile Island, Unit 1, Technical Specifications (TSs). In particular, the proposed amendment would (1) update TS 5.4.2 for the current number of fuel assemblies and number of reactor cores that are stored in Spent Fuel Pool A; (2) revise TS 6.1.2 requirements for the Chief Nuclear Officer to eliminate the annual management directive to all unit personnel responsible for the control room command function; and (3) delete the TS 6.2.2.2.d footnote that references Control Room Supervisors who do not possess a Senior Reactor Operator NRC License.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve the modification of any plant equipment or affect plant operation. The proposed changes will have no impact on any safety related structures, systems, or components. The proposed changes are administrative in nature and there are no changes to the conduct of control room licensed operators during evaluated accidents.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2 Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on the design, function or operation of any plant structure, system or component. The proposed changes do not affect plant equipment or accident analyses. The proposed changes are administrative in nature.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There is no change being made to safety analysis assumptions, safety limits or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. Margins of safety associated with fission product barriers are unaffected by proposed administrative changes.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* James G. Danna.

*FirstEnergy Nuclear Operating Company, et al., Docket No. 50–334, Beaver Valley Power Station (BVPS) Unit No. 1 (BVPS–1), Beaver County, Pennsylvania*

*FirstEnergy Nuclear Operating Company, et al., Docket No. 50–346, Davis-Besse Nuclear Power Station (DBNPS), Unit No. 1, Ottawa County, Ohio*

*Date of amendment request:* May 18, 2017. A publicly-available version is in ADAMS under Accession No. ML17138A381.

*Description of amendment request:* By NRC's Order dated April 15, 2016 (ADAMS Accession No. ML16078A092), which approved the transfer of certain sale-leaseback ownership of the Perry Nuclear Power Plant to FirstEnergy Nuclear Generation, LLC (FENGen or FENGenCo), the NRC accepted the change from FirstEnergy Corp. (FE) to FirstEnergy Solutions Corp. (FES) providing the $400 million support agreement. The NRC reaffirmed FES as the provider of the financial support agreement in the recently approved transfer of ownership for BVPS, Unit No. 2, dated April 14, 2017 (ADAMS Accession No. ML17081A433, Nonproprietary Safety Evaluation). The proposed amendment would conform the BVPS–1 and DBNPS Renewed Operating Licenses (ROLs) to reflect that FES is providing the $400 million support agreement instead of FE.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise license conditions in the BVPS–1 and DBNPS ROLs by changing the company that provides a financial support agreement for FirstEnergy Nuclear Generation, LLC (FENGen). The NRC has stated that FENGen has adequate financial qualifications for operating Beaver Valley Power Station, Units No. 1 and 2; Davis-Besse Nuclear Power Station, Unit No. 1; and Perry Nuclear Power Plant, Unit No. 1. The proposed change also revises the DBNPS renewed operating license condition to indicate that there is only one support agreement. The proposed changes do not affect the requirements of the license conditions. The proposed ROL changes do not alter the design or operation of either BVPS–1 or DBNPS. As a result, accident analyses at either facility has not been affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revise license conditions in the BVPS–1 and DBNPS ROLs by changing the company that provides a financial support agreement for FENGen. The proposed change also revises the DBNPS renewed operating license condition to indicate that there is only one support agreement. The NRC has stated that FENGen has adequate financial qualifications. The proposed changes do not affect the requirements of the license conditions. The proposed ROL changes do not alter the design or operation of either BVPS–1 or DBNPS. No new equipment has been incorporated into the plant design or operation.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes revise license conditions in the BVPS–1 and DBNPS ROLs by changing the company that provides a financial support agreement for FENGen. The proposed change also revises the DBNPS renewed operating license condition to indicate there is only one support agreement. The NRC has stated that FENGen has adequate financial qualifications. The proposed changes do not affect the requirements of the license conditions. The proposed ROL changes do not alter the design or operation of either BVPS–1 or DBNPS. No new equipment has been incorporated into the plant design or operation.

Therefore, the proposed change does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* David W. Jenkins, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Mail Stop A–GO–15, Akron, OH 44308.

*NRC Branch Chief:* David J. Wrona.

*FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant (PNPP), Unit No. 1, Lake County, Ohio*

*Date of amendment request:* June 8, 2017. A publicly-available version is in ADAMS under Accession No. ML17159A720.

*Description of amendment request:* The proposed amendment would revise PNPP technical specifications (TSs) to reflect previously approved license basis changes as part of the alternative source term initiative; align some TS sections with NUREG–1434, Revision 4, ''Standard Technical Specifications—General Electric BWR [Boiling-Water Reactor]/6 Plants''; and delete two TS sections.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment involves incorporating technical specification changes that reflect previously approved license basis changes as part of the alternative source term (AST) initiative, aligns some TS sections with NUREG–1434, Revision 4, and deletes two TS sections. The proposed amendment does not affect any accident mitigating feature or increase the likelihood of malfunction for plant structures, systems and components.

Verification of operating the plant within prescribed limits will continue to be performed, as currently required by the applicable TS surveillance requirements. Compliance with and continued verification of the prescribed limits support the capability of the systems to perform their required design functions during all plant operating, accident, and station blackout conditions, consistent with the plant safety analyses.

The proposed amendment will not change any of the analyses associated with the PNPP Updated Safety Analysis Report Chapter 15 accidents because accident initiators and accident mitigation functions remain unchanged. The proposed amendment does not alter any assumptions previously made relative to evaluating the consequences of an accident.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not involve physical alterations to the plant. No new or different type of equipment will be installed and there are no physical modifications required to existing installed equipment associated with the proposed changes. The proposed amendment does not create a credible failure mechanism, malfunction, or accident initiator not already considered in the design and licensing basis.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Safety margins are applied to design and licensing basis functions and to the controlling values of parameters to account for various uncertainties and to avoid exceeding regulatory or licensing limits. The proposed amendment does not require a physical change to the plant, or affect design and licensing basis functions or controlling values of parameters for plant systems, structures, and components.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.

*NRC Branch Chief:* David J. Wrona.

*III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses*

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

*Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina*

*Date of amendment request:* July 20, 2016.

*Brief description of amendments:* The amendments revised Technical Specifications 3.7.12, ''Spent Fuel Pool Boron Concentration,'' 3.7.18, ''Dry Spent Fuel Storage Cask Loading and Unloading,'' and 4.4, ''Dry Spent Fuel Storage Cask Loading and Unloading,'' to remove requirements that no longer pertain to independent spent fuel storage facility general licensed activities.

*Date of issuance:* July 12, 2017.

*Effective date:* As of the date of issuance and shall be implemented within 60 days of issuance.

*Amendment Nos.:* 404, 406, and 405. A publicly-available version is in ADAMS under Accession No. ML17167A265; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR–38, DPR–47 and DPR–55:* Amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register**:* February 14, 2017 (82 FR 10593).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 12, 2017.

*No significant hazards consideration comments received:* No.

*Duke Energy Progress, LLC, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina*

*Date of amendment request:* August 29, 2016.

*Brief description of amendments:* The amendments revised the technical specifications (TSs) to eliminate Section 5.5.6, ''Inservice Testing Program.'' A new defined term, ''INSERVICE TESTING PROGRAM,'' is added to the TSs. All existing references to the ''Inservice Testing Program'' in the TS surveillance requirements (SRs) are replaced with ''INSERVICE TESTING PROGRAM'' so that the SRs refer to the new definition in lieu of the deleted program.

*Date of issuance:* July 12, 2017.

*Effective date:* As of date of issuance and shall be implemented within 90 days of issuance.

*Amendment Nos.:* 278 (Unit 1) and 306 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17130A780; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR–71 and DPR–62:* Amendments revised the Renewed Facility Operating Licenses and TSs.

*Date of initial notice in **Federal Register**:* December 6, 2016 (81 FR 87967).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 12, 2017.

*No significant hazards consideration comments received:* No.

*Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts*

*Date of amendment request:* February 14, 2017, as supplemented by letter dated May 25, 2017.

*Brief description of amendment:* The amendment revised certain staffing and training requirements, reports, programs, and editorial changes contained in the Technical Specification (TS) Table of Contents; Section 1.0, ''Definitions''; Section 4.0, ''Design Features''; and Section 5.0, ''Administrative Controls'' that will no longer be applicable once Pilgrim Nuclear Power Station is permanently defueled.

*Date of issuance:* July 10, 2017.

*Effective date:* Upon the licensee's submittal of the certifications required by 10 CFR 50.82(a)(1) and shall be implemented within 60 days from the amendment effective date.

*Amendment No.:* 246. A publicly-available version is in ADAMS under Accession No. ML17066A130; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. DPR–35:* The amendment revised the Renewed Facility Operating License and TSs.

*Date of initial notice in **Federal Register**:* March 28, 2017 (82 FR 15380). The supplemental letter dated May 25, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 2017.

*No significant hazards consideration comments received:* No.

*Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois and Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois*

*Date of application for amendments:* February 23, 2017, as supplemented by letter dated June 29, 2017.

*Brief description of amendment:* The amendments revised the operating licenses and technical specifications to remove time, cycle, or modification-related items. Additionally, the proposed amendments made editorial and formatting changes. The time, cycle, or modification-related items have been implemented or superseded and are no longer applicable.

*Date of issuance:* July 5, 2017, as supplemented by letter dated June 29, 2017.

*Effective date:* As of the date of issuance and shall be implemented within 60 days from the date of issuance.

*Amendment Nos.:* 193 for NPF–72, 193 for NPF–77, 198 for NPF–37, and 198 for NPF–66. A publicly-available version is in ADAMS under Accession No. ML17088A703; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF–72, NPF–77, NPF–37, and NPF–66:* The amendments revised the Technical Specifications and License.

*Date of initial notice in **Federal Register**:* April 11, 2017 (82 FR 17459). The supplemental letter dated June 29, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 5, 2017.

*No significant hazards consideration comments received:* No.

*South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield, South Carolina*

*Date of amendment request:* December 6, 2017, as supplemented by letter dated May 25, 2017.

*Description of amendment:* The amendments consisted of changes to the VCSNS Units 2 and 3 Updated Final Safety Analysis Report (UFSAR) in the form of departures from plant-specific Design Control Document Tier 2 information, Combined License (COL) Appendix A Technical Specifications (TSs), and COL Appendix C information. The departures consisted of in-containment refueling water storage tank (IRWST) minimum volume changes in plant-specific UFSAR Table 14.3–2, COL Appendix A TSs 3.5.6, 3.5.7 and 3.5.8 and Surveillance Requirements 3.5.6.2 and 3.5.8.2 and COL Appendix C (and associated plant-specific Tier 1) Table 2.2.3–4. The changes restored the desired consistency of these sections with the UFSAR IRWST minimum volume value in other locations.

*Date of issuance:* June 16, 2017.

*Effective date:* As of the date of issuance and shall be implemented within 30 days of issuance.

*Amendment No.:* 75. A publicly-available version is in ADAMS under Accession No. ML17135A327; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Facility Combined Licenses Nos. NPF–93 and NPF–94:* Amendments revised the Facility Combined Licenses.

*Date of initial notice in **Federal Register**:* January 24, 2017 (82 FR 8220). The supplemental letter dated May 25, 2017, provided additional information that clarified the application, did not expand the scope of the application request as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in the Safety Evaluation dated June 16, 2017.

*No significant hazards consideration comments received:* No.

*STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project (STP), Units 1 and 2, Matagorda County, Texas*

*Date of amendment request:* June 19, 2013, as supplemented by letters dated October 3, October 31, November 13, November 21, and December 23, 2013 (two letters); January 9, February 13, February 27, March 17, March 18, May 15 (two letters), May 22, June 25, and July 15, 2014; March 10, March 25, and August 20, 2015; April 13, May 11, June 9, June 16, July 18, July 21 (two letters), July 28, September 12, October 20, November 9, and December 7, 2016; and January 19, 2017.

*Brief description of amendment:* The amendments authorized revision of the licensing basis for Facility Operating License Nos. NPF–76 and NPF–80, for STP, Units 1 and 2, as documented in the Updated Final Safety Analysis Report and revise the Technical Specifications (TSs). The changes authorized use of a deterministic bounding calculation based on plant-specific testing, and a risk-informed approach to address safety issues discussed in Generic Safety Issue 191, ''Assessment of Debris Accumulation on PWR [Pressurized-Water Reactor] Sump Performance,'' and to resolve the concerns in Generic Letter 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation during Design Basis Accidents at Pressurized-Water Reactors,'' dated September 13, 2004, for STP, Units 1 and 2.

*Date of issuance:* July 11, 2017.

*Effective date:* As of the date of issuance and shall be implemented within 90 days of issuance.

*Amendment Nos.:* Unit 1–212; Unit 2–198. A publicly-available version is in ADAMS under Accession No. ML17019A001; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF–76 and NPF–80:* The amendments revised the Facility Operating Licenses and TSs.

*Date of initial notice in **Federal Register**:* February 16, 2016 (81 FR 7843). The supplemental letters dated April 13, May 11, June 9, June 16, July 18, July 21 (two letters), July 28, September 12, October 20, November 9, and December 7, 2016; and January 19, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 11, 2017.

*No significant hazards consideration comments received:* No.

*Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant (WBN), Unit 2, Rhea County, Tennessee*

*Date of amendment request:* November 23, 2016, as supplemented by letters dated February 16, 2017, and June 9, 2017.

*Brief description of amendment:* The amendment revised Technical Specification Surveillance Requirement (SR) 3.0.2 to extend, on a one-time basis, SRs listed in Attachments 5, 6, 7, 9, 12, 13, 14, 15, 16, and 17 to Enclosure 1 of the application that are normally performed on an 18-month frequency in conjunction with a refueling outage. The

change extends the due date for these SRs to October 31, 2017, which allows these SRs to be performed during the first refueling outage for WBN, Unit 2.

*Date of issuance:* July 11, 2017.

*Effective date:* As of the date of issuance and shall be implemented within 7 days of issuance.

*Amendment No.:* 13. A publicly-available version is in ADAMS under Accession No. ML17180A024; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Facility Operating License No NPF–96:* Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* January 17, 2017 (82 FR 4932). The supplemental letters dated February 16, 2017, and June 9, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 11, 2017.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 21st day of July 2017.

For the Nuclear Regulatory Commission.

**Anne T. Boland,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2017–15986 Filed 7–31–17; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–81223; File No. SBSDR–2017–01]**

## Security-Based Swap Data Repositories; ICE Trade Vault, LLC; Notice of Filing of Amended Application for Registration as a Security-Based Swap Data Repository

July 27, 2017.

### I. Introduction

On May 1, 2017, ICE Trade Vault, LLC (''ICE Trade Vault'') amended its Form SDR (''Initial Form SDR'') [1] seeking registration with the Securities and Exchange Commission (''Commission'' or ''SEC'') as a security-based swap data repository (''SDR'') (''Amended Form SDR'').[2] In its Amended Form SDR, ICE Trade Vault proposes to operate as a registered SDR for security-based swap (''SBS'') transactions in the credit derivatives asset class.[3] The Commission previously published notice of ICE Trade Vault's Initial Form SDR on April 22, 2016, to solicit comments from interested persons. The comment period closed on May 31, 2016. To date, the Commission has received six comment letters on the ICE Trade Vault application.[4] After the close of the comment period, ICE Trade Vault submitted its Amended Form SDR with revisions to several policies and procedures.[5] ICE Trade Vault's proposed revisions described herein reflect substantive changes from what was reflected in ICE Trade Vault's Initial Form SDR, including amendments to the process to confirm data accuracy and completeness with a non-reporting side; fee schedule; policies and procedures regarding access; policies and procedures on regulator access; policies and procedures related to the correction of errors; policies and procedures related to satisfying the requirements of Regulation SBSR; and certain key terms and definitions. The Commission seeks comment from interested parties on these changes and is publishing ICE Trade Vault's revisions in its Amended Form SDR with a 21-day comment period.[6]

### II. Background

#### *A. SDR Registration, Duties and Core Principles, and Regulation SBSR*

Section 763(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 added Section 13(n) to the Securities Exchange Act of 1934 (''Exchange Act''), which makes it ''unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a security-based SDR.'' To be registered and maintain registration, each SDR must comply with certain requirements and ''core principles'' described in Section 13(n) as well as any requirements that the Commission may impose by rule or regulation.[7]

Exchange Act Rules 13n–1 through 13n–12 (''SDR rules'') establish the procedures and Form SDR by which an SDR shall register with the Commission and certain ''duties and core principles'' to which an SDR must adhere.[8] Among other requirements, the SDR rules require an SDR to collect and maintain accurate SBS data and make such data available to the Commission and other authorities so that relevant authorities will be better able to monitor the buildup and concentration of risk exposure in the SBS market.[9]

Concurrent with the Commission's adoption of the SDR rules, the Commission adopted,[10] and later amended,[11] Exchange Act Rules 900 to 909 (''Regulation SBSR''),[12] which, among other things, provide for the reporting of SBS trade data to registered

[1] *See* Exchange Act Release No. 77699 (Apr. 22, 2016), 81 FR 25475 (Apr. 28, 2016) (''ICE Trade Vault Notice Release''). As noted in the ICE Trade Vault Notice Release, ICE Trade Vault's Form SDR was submitted to the Commission on March 29, 2016 and amended on April 18, 2016.

[2] ICE Trade Vault filed its Amended Form SDR, including the exhibits thereto, electronically with the Commission. The descriptions set forth in this notice regarding the structure and operations of ICE Trade Vault have been derived, excerpted, and/or summarized from information in ICE Trade Vault's Amended Form SDR application, and principally from ICE Trade Vault's Guidebook (Exhibit GG.2), which outlines the applicant's policies and procedures designed to address its statutory and regulatory obligations as an SDR registered with the Commission. ICE Trade Vault's Amended Form SDR and non-confidential exhibits thereto are available on *https://www.sec.gov/Archives/edgar/data/1658496/000165849617000009/0001658496-17-000009-index.htm.* In addition, the public may access copies of these materials on the Commission's Web site at: *https://www.sec.gov/rules/other/2017/34-81223.pdf.*

[3] ICE Trade Vault's Form SDR application also constitutes an application for registration as a securities information processor. *See* Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14438, 14458 (Mar. 19, 2015) (''SDR Adopting Release'').

[4] *See* letters from Tara Kruse, Director, Co-Head of Data, Reporting and FpML, International Swaps and Derivatives Association, Inc. (May 24, 2016); Tara Kruse, Director, Co-Head of Data, Reporting and FpML, International Swaps and Derivatives Association, Inc. (May 31, 2016); Jennifer S. Choi, Associate General Counsel, Investment Company Institute (May 31, 2016); Timothy W. Cameron, Asset Management Group—Head, and Laura Martin, Asset Management Group—Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (May 31, 2016); Tod Skarecky, Vice President, Clarus Financial Technology (May 31, 2016); Andrew Rogers, Director and Global Head of Reference Data, IHS Markit (Aug. 8, 2016). Additionally, on July 1, 2016, ICE Trade Vault submitted its own letter, responding to comments received. *See* letter from Kara Dutta, General Counsel, and Tara Manuel, Director, ICE Trade Vault, LLC (July 1, 2016). Copies of all comment letters are available at *https://www.sec.gov/comments/sbsdr-2016-01/sbsdr201601.htm.*

[5] *See supra* note 2.

[6] The Commission intends to address any comments received for this notice, as well as those comments previously submitted regarding the Initial Form SDR, when the Commission makes a determination of whether to register ICE Trade Vault as an SDR pursuant to Rule 13n–1(c).

[7] 15 U.S.C. 78m(n).

[8] *See* SDR Adopting Release, 80 FR 14438.

[9] *See id.* at 14450.

[10] *See* Securities Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015).

[11] *See* Securities Exchange Act Release No. 78321 (July 14, 2016), 81 FR 53546 (Aug. 12, 2016).

[12] *See* 17 CFR 242.900 to 242.909; *see also* Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015) (''Regulation SBSR Adopting Release'').

SDRs, and the public dissemination of SBS transaction, volume, and pricing information by registered SDRs. In addition, Regulation SBSR requires each registered SDR to register with the Commission as a securities information processor (''SIP'').[13]

*B. Standard for Granting SDR Registration*

To be registered with the Commission as an SDR and maintain such registration, an SDR is required (absent an exemption) to comply with the requirements and core principles described in Exchange Act Section 13(n), as well as with any requirements that the Commission adopts by rule or regulation.[14] Exchange Act Rule 13n–1(c)(3) provides that the Commission shall grant the registration of an SDR if it finds that the SDR is so organized, and has the capacity, to be able to (i) assure the prompt, accurate, and reliable performance of its functions as an SDR, (ii) comply with any applicable provisions of the securities laws and the rules and regulations thereunder, and (iii) carry out its functions in a manner consistent with the purposes of Section 13(n) of the Exchange Act and the rules and regulations thereunder.[15] The Commission shall deny registration of an SDR if it does not make any such finding.[16]

In determining whether an applicant meets the criteria set forth in Exchange Act Rule 13n–1(c), the Commission will consider the information reflected by the applicant on its Form SDR, as well as any additional information obtained from the applicant. For example, Form SDR requires an applicant to provide a list of the asset class(es) for which the applicant is collecting and maintaining data or for which it proposes to collect and maintain data, a description of the functions that it performs or proposes to perform, general information regarding its business organization, and contact information.[17] This, and other information reflected on the Form SDR, will assist the Commission in understanding the basis for registration as well as the SDR applicant's overall business structure, financial condition, track record in providing access to its services and data, technological reliability, and policies and procedures to comply with its statutory and regulatory obligations.[18] Furthermore, the information requested in Form SDR will enable the Commission to assess whether the SDR applicant would be so organized, and have the capacity to comply with the federal securities laws and the rules and regulations thereunder, and ultimately whether to grant or deny an application for registration.[19]

## III. ICE Trade Vault's Amended Form SDR

As noted above, in its Amended Form SDR, ICE Trade Vault proposes amendments to the following:

- Process to confirm data accuracy and completeness with a non-reporting side;
- Its fee schedule;
- Policies and procedures regarding access to ICE Trade Vault's system and services;
- Policies and procedures related to the correction of errors;
- Policies and procedures on regulator access;
- Certain policies and procedures related to satisfying the requirements of Regulation SBSR; and
- Certain key terms and definitions.

*A. Process To Confirm Data Accuracy and Completeness With a Non-Reporting Side*

Section 13(n)(5)(B) of the Exchange Act requires that an SDR confirm the accuracy of the data that was submitted with both counterparties to the SBS.[20] Exchange Act Rule 13n–5(b)(1)(iii) requires every SDR to establish, maintain, and enforce written policies and procedures reasonably designed to satisfy itself that the transaction data that has been submitted to the SDR is complete and accurate.[21] Exchange Act Rule 13n–4(b)(3) requires every SDR to confirm, as prescribed in Exchange Act Rule 13n–5, with both counterparties the accuracy of the information submitted to the SDRs.[22]

In its Initial Form SDR, ICE Trade Vault did not propose a process to reach out to a non-reporting side to confirm data accuracy and completeness. ICE Trade Vault proposed to have policies and procedures requiring Users [23] to report complete and accurate trade information (and make representations to that effect) and to review and resolve all error messages generated by the ICE Trade Vault system. If any trade information was found to be incorrect or incomplete, ICE Trade Vault proposed that it would require Users to correct and resubmit such information to the ICE Trade Vault system. For SBS that were not executed on a platform, ICE Trade Vault proposed that it would require the reporting side to provide the method used to confirm the trade information (*e.g.,* electronic confirmation service or paper confirmation). If the counterparties to an SBS used a paper confirmation to confirm the trade, ICE Trade Vault proposed that it would require the reporting side to upload to the ICE Vault Trade system a copy of the confirmation that was agreed upon by the counterparties. Additionally, with regard to any missing unique identification codes (''UICs''), in its Initial Form SDR, ICE Trade Vault proposed to (i) allow (but not require) the reporting side to submit the non-reporting side's UIC information (other than counterparty ID), and (ii) otherwise require the reporting side to inform the non-reporting side that its trade information was reported without required UIC information, in which case if the non-reporting side was not a User, ICE Trade Vault directed the non-reporting side to contact ICE Trade Vault to onboard to provide such UIC information.[24]

In its Amended Form SDR, in Section 4.10.1 of the revised Guidebook, ICE Trade Vault proposes to reach out to non-reporting sides to confirm data accuracy and completeness. If the non-reporting side is a ''participant'' under the Regulation SBSR rules [25] but is not

[13] *See* Regulation SBSR Adopting Release, 80 FR at 14567; *see supra* note 3.

[14] *See* Exchange Act Section 13(n)(3), 15 U.S.C. 78m(n)(3).

[15] *See* 17 CFR 240.13n–1(c)(3).

[16] *See id.*

[17] *See* SDR Adopting Release, 80 FR at 14459.

[18] *See id.* at 14458.

[19] *See id.* at 14458–59.

[20] *See* 15 U.S.C. 78m(n)(5)(B).

[21] *See* 17 CFR 240.13n–5(b)(1)(iii); *see also* SDR Adopting Release, 80 FR at 14491.

[22] *See* 17 CFR 240.13n–4(b)(3).

[23] As discussed below, a ''User'' is an entity that has validly enrolled with ICE Trade Vault. *See infra* Section III.F.2.

[24] As discussed below, Rule 903 of Regulation SBSR requires a registered SDR to use UICs to specifically identify a variety of persons and things. *See infra* Section III.F.3

[25] Regulation SBSR states that the term ''Participant'' as with respect to a registered security-based swap data repository, means: (1) A counterparty, that meets the criteria of § 242.908(b), of a security-based swap that is reported to that registered security-based swap data repository to satisfy an obligation under § 242.901(a); (2) A platform that reports a security-based swap to that registered security-based swap data repository to satisfy an obligation under § 242.901(a); (3) A registered clearing agency that is required to report to that registered security-based swap data repository whether or not it has accepted a security-based swap for clearing pursuant to § 242.901(e)(1)(ii); or (4) A registered broker-dealer (including a registered security-based swap execution facility) that is required to report a security-based swap to that registered security-based swap data repository by § 242.901(a). *See* 17 CFR 240.900(u). It should be noted that someone who is a ''participant'' as that term is defined in Regulation SBSR would not automatically be a ''User'' as defined in ICE Trade Vault's policies and procedures. For example, if a reporting side were to report a SBS transaction to ICE Trade Vault, the non-reporting side counterparty would be a ''participant'' of ICE Trade Vault under Regulation

Continued

a User of ICE Trade Vault and has not designated a Third Party Reporter [26] or Execution Agent [27] to report on its behalf, ICE Trade Vault proposes that:

. . . ICE Trade Vault will attempt to notify the non-Reporting Side of the missing UIC information using the email address for the non-Reporting Side that was reported by the Reporting Side. Such email notice to the non-Reporting Side will indicate that ICE Trade Vault has received trade information to which the non-Reporting Side is indicated as a party to the trade. The email notice will further indicate the non-Reporting Side's trade information was reported to ICE Trade Vault without the required UIC information and that the non-Reporting Side should contact ICE Trade Vault (*TradeVaultSupport@theice.com*) to register for access to the SBSDR Service in order to provide any missing UICs. If the Reporting Side provided the non-Reporting Side's LEI but elected not to provide an email address for the non-Reporting Side, ICE Trade Vault will attempt to so notify the non-Reporting Side using available email contact information contained in the static data maintained by ICE Trade Vault with respect to market participants, to the extent Trade Vault is permitted by Applicable Law to utilize such data (without contravening, for example, local privacy laws or contractual obligations of ICE Trade Vault).

ICE Trade Vault will not verify the validity of any email address and will not confirm whether any of its email notices were duly received or take further action if an email notice is rejected.

*B. Fee Schedule*

Section 13(n)(7)(A) of the Exchange Act provides that an SDR shall not (i) adopt any rule or take any action that results in any unreasonable restraint of trade; or (ii) impose any material anti-competitive burden on the trading, clearing or reporting of transactions.[28] Exchange Act Rule 13n–4(c)(1)(i) requires each SDR to ensure that any dues, fees, or other charges that it imposes, and any discounts or rebates that it offers, are fair and reasonable and not unreasonably discriminatory.[29] Rule 13n–4(c)(1)(i) also requires such dues, fees, other charges, discounts, or rebates to be applied consistently across all similarly-situated users of the SDR's services.[30]

In its Initial Form SDR, ICE Trade Vault proposed charging fees based upon the outstanding notional value of an SBS.[31] As part of its Amended Form SDR, in revised Exhibit M.2, ICE Trade Vault proposes a different fee framework. ICE Trade Vault now proposes to charge fees based upon message traffic for an SBS instead of upon outstanding notional value. In addition, ICE Trade Vault proposes to impose fees on a ''Third Party Reporter'' (such as a registered SBS dealer) when it reports UICs as agent on behalf of a client/non-User. ICE Trade Vault also proposes to impose different fee structures for counterparties that connect using Execution Agents and Third Party Reporters. Specifically, and in pertinent part, ICE Trade Vault proposes that:

Repository Fees [32] will be assessed upon the ICE Trade Vault Service's acceptance of any trade message [33] for a Security-based swap will be charged as follows:

- Cleared Security-based swap User [34]—A Repository Fee will be charged to the Clearing Agency (''CA'') that cleared the Security-based swap; and
- Uncleared/Bilateral Security-based swap User—A Repository Fee will be charged to the User which submitted the record as a counterparty or execution agent to the Trade.

A User will obtain access to all onboarding documentation and UAT [35] environments, without incurring any charges, once the User Agreement has been executed. Fees will only be charged once the User has been granted access to the Production system upon their request. Termination and rejection messages submitted for an Original [36] Security-based swap will not have any fee applied. Where a Reporting Side submits Unique Identification Code (''UIC'') information on behalf of a Non-Reporting Side, that Reporting Side will not be charged an additional reporting fee.

Specifically, ICE Trade Vault proposes the following pricing schedule:

Direct Reporting by Counterparty Users: The minimum monthly invoice per User will be $375. In a given month, each User represented as a counterparty shall be invoiced the greater of (i) the total of all Repository Fees incurred by User or (ii) $375. If the User does not have any submittals in a given month but does have open positions on Security-based swaps in the ICE Trade Vault Service, the $375 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the User does not have any submittals in a given month and does not have any open positions then no fees will be charged.

Direct Reporting by Clearing Agency Users: The minimum monthly invoice per User which is a Clearing Agency will be $375. In a given month, each Clearing Agency User represented as a counterparty shall be invoiced the greater of (i) the total of all Repository Fees incurred by User or (ii) $375. If the User does not have any submittals in a given month but does have open positions on Security-based swaps in the ICE Trade Vault Service, the $375 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the User does not have any submittals in a given month and does not have any open positions then no fees will be charged.

Reporting by Execution Agent Users: All Security-based swaps reported to ICE Trade Vault by an Execution Agent will be charged the Repository Fee in the following manner:

- For all Security-based swaps reported by an Execution Agent where they are acting on behalf of the counterparty and listed as the Execution Agent, the Execution Agent will be charged the Repository Fee. The underlying funds, accounts or other principals will not be charged a fee.
- For all Security-based swaps reported by an Execution Agent where they are acting as the counterparty, the Execution Agent will be charged the Repository Fee.
- The Minimum Monthly Amount per Execution Agent will be a total of $375 inclusive of all transactions in which the Execution Agent is acting in its capacity as such and any proprietary transactions.

Reporting by Third Party Reporters: For all transactions reported to ICE Trade Vault for Security-based swaps by a Third Party Reporter, the Third Party Service Reporter will only be charged a Repository Fee for those transactions it reports on behalf of non-Users of ICE Trade Vault and will be charged in the following manner:

- Each non-User that the Third Party Reporter reports on behalf of will have an invoice created as if they were a User, meaning that in a given month, each non-User represented as a counterparty for which the Third Party Reporter reported on behalf of shall be invoiced the greater of (i) the total of all Repository Fees incurred by non-User or (ii) $200. If the non-User does not have any submittals by the Third Party Reporter in

SBSR simply by virtue of the reporting side's actions, but would not be an on-boarded ''User'' of the SDR unless it actively registered with ICE Trade Vault by signing a User Agreement. In its Form SDR, ICE Trade Vault uses the term ''SEC Participant'' to refer to a ''participant'' as defined in Regulation SBSR. *See infra* Section III.F.2.

[26] In its Amended Form SDR, ICE Trade Vault proposes to define ''Third Party Reporter'' as ''[a] person that has been authorized by a Counterparty or a Platform to report SBSDR Information to ICE Trade Vault on behalf of such Counterparty or Platform.'' *See also* Exhibits N.7 (Third-Party Reporter Onboarding Guide) and U.2 (ICE Trade Vault Security-Based SDR User Agreement).

[27] In its Amended Form SDR, ICE Trade Vault proposes to define ''Execution Agent'' as ''[a]ny person other than a broker or trader that facilitates the execution of a Security-based swap on behalf of a direct Counterparty.'' *See also* Exhibits N.8 (Execution Agent Onboarding Guide) and U.2.

[28] *See* 7 U.S.C. 24a(f)(1)(A), (B).

[29] *See* 17 CFR 240.13n–4(c)(1)(i).

[30] *See id.*

[31] *See* Exhibit M.2

[32] For additional information regarding ICE Trade Vault's proposed fees, please see chart contained in Exhibit M.2.

[33] A trade message is defined as any submittal of trade data whether the initial report, creating a new Unique Trade Identifier (''UTI''), or a subsequent report on an existing UTI including lifecycle events, disputes, and UIC updates.

[34] ICE Trade Vault notes that a ''User,'' as defined in Section 1.48 of the revised Guidebook, is an entity that has validly enrolled with ICE Trade Vault through a duly executed User Agreement. *See* Exhibit M.2.

[35] The term ''UAT'' refers to user acceptance testing.

[36] ICE Trade Vault notes that an ''Original Security-based swap'' means ''a swap that has been accepted for clearing by a derivatives clearing organization, also known as an 'alpha' swap.'' *See* Exhibit M.2.

a given month but does have open positions on Security-based swaps in the ICE Trade Vault Service, $200 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the non-User does not have any submittals by the Third Party Reporter in a given month and does not have any open positions then no fees will be charged.

• Details of the Repository Fees incurred or the Minimum Monthly Amount for each non-User will be detailed on the Third-Party Service Provider's invoice and summed across all non-Users to determine the total amount charged to any one Third Party Reporter.

*C. Policies and Procedures Regarding Access to ICE Trade Vault's System and Services*

As part of its Amended Form SDR, ICE Trade Vault proposes changes to Section 3 of its revised Guidebook to address the issue of a User's access rights to data contained in ICE Trade Vault.[37] In Section 3.1, ICE Trade Vault notes that ''Users shall only have access to (i) data they reported; (ii) data that pertains to a Security-based swap to which they are a Counterparty; (iii) data that pertains to a Security-based swap for which the User is an Execution Agent, Platform, registered broker-dealer or a Third Party Reporter; and (iv) data that ICE Trade Vault is required to disseminate publicly (*i.e.,* Public Data).''

1. Denial of User Enrollment and Access Determination

In its Initial Form SDR, ICE Trade Vault proposed some policies and procedures relating to access restrictions to its system. In its Amended Form SDR, ICE Trade Vault provides more information by proposing new Section 3.1.2 to its Guidebook, which provides that:

ICE Trade Vault may decline the request of an applicant to become a User of the ICE SBSDR Service if such denial is required in order to comply with Applicable Law (*e.g.,* to comply with sanctions administered and enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury (''OFAC'')). ICE Trade Vault shall notify the SEC of any such denial.

If an applicant is denied by ICE Trade Vault for any other reason, the denial shall be treated as an ''Access Determination'' (as defined below), and the applicant will be entitled to notice and an opportunity to contest such determination in accordance with Section 3.4 of this Guidebook. If the denial of an application is reversed, the applicant will be granted access to the ICE SBSDR Service promptly following completion of onboarding requirements.

2. Violations of Guidebook/Applicable Law

In its Amended Form SDR, ICE Trade Vault proposes new Sections 3.2 to 3.6 to its Guidebook to address policies and procedures that govern in circumstances in which the User has violated the Guidebook and/or applicable law.[38] In Section 3.2 of the revised Guidebook, ICE Trade Vault proposes that it ''shall have the authority to conduct inquiries into, and impose access restrictions in response to, any violation of this Guidebook and/or Applicable Law ('Violations') committed by Users as provided in this Section 3.2.''

Additionally, in Section 3.2, ICE Trade Vault provides a description of the powers and duties of the CCO:

• The CCO is responsible for enforcing this Section 3.2 and shall have the authority to inspect the books and records of all Users that are reasonably relevant to any inquiry carried out pursuant to this Section 3.2. The CCO shall also have the authority to require any User to appear before him or her to answer questions regarding possible Violations. The CCO may also delegate such authority to ICE Trade Vault employees, including officers, and such other individuals (who possess the requisite independence from ICE Trade Vault and the relevant User) as ICE Trade Vault may hire on a contractual basis.

• The CCO shall conduct inquiries of possible Violations, prepare written reports with respect to such inquiries, furnish such reports to the Board of Directors and conduct the examinations with respect to such Violations.

If, in any case, the CCO (or another ICE Trade Vault employee designated for this purpose by ICE Trade Vault) concludes that a Violation may have occurred, he or she may:

• issue a warning letter to the User informing it that there may have been a Violation and that such continued activity may result in access restrictions and notice to the SEC; and/or

• negotiate a written settlement agreement with the User, whereby the User, with or without admitting responsibility, may agree to (i) comply with a cease and desist order; and/or (ii) a limitation of access to the ICE SBSDR Services and the System.

Any settlement recommended by the CCO shall be subject to the approval of the Board of Directors and shall become final and effective pursuant to Rule 3.2.3.

ICE Trade Vault also describes the disciplinary authority of the Board of Directors:

• The Board of Directors shall have the power to direct that an inquiry of any possible Violation be conducted by the CCO and shall hear any matter referred to it by the CCO regarding a possible Violation.

• In any case where the Board of Directors concludes that a Violation has occurred, the Board of Directors may: (i) Refer or return the matter to the CCO with instructions for further investigation; (ii) approve a settlement agreement negotiated pursuant to Section 3.2.2 with such User (which may provide for consequences other than those recommended by the CCO); and/or (iii) take, or instruct the CCO to take, any further action it deems necessary including, but not limited to, issuing:

▪ A cease and desist order or a written warning; and/or

▪ a limitation of access to the ICE SBSDR Services and the System.

3. Revocation of Access

In its Amended Form SDR, in Section 3.3 of the revised Guidebook, ICE Trade Vault provides more information about the procedures for revocation of a User's access:

ICE Trade Vault may revoke a User's access to the System, the ICE SBSDR Service or SBSDR Information[39] in accordance with this Section 3.3 following a determination that (i) the User has violated any provision of the User Agreement (including by failing to pay any fees when due), this Guidebook, Applicable Law or any ICE Trade Vault policies and procedures related to the ICE SBSDR Service or (ii) such action is necessary or appropriate in light of ICE Trade Vault's regulatory responsibilities or for the protection of the integrity of the System (each, an 'Access Determination''). Access Determinations shall be made by the CCO based on the information gathered during the inquiry, if any, conducted in accordance with Section 3.2.2 and reviewed by the President and General Counsel of ICE Trade Vault within 5 business days of such determination prior to implementing any revocation of access. Notwithstanding the foregoing, the CCO's Access Determination may be implemented immediately without prior review by the President or General Counsel (''Immediate Revocation'') where the CCO determines such revocation is necessary for the protection of the integrity of the System or to fulfill ICE Trade Vault's regulatory responsibilities.

If (i) an Immediate Revocation occurs or (ii) the President and General Counsel conclude that an Access Determination is appropriate and in compliance with Applicable Law, the CCO shall, within 1 business day, provide notice by email to the User to which the Access Determination applies, including in such notice the specific reasons for the determination. If the President and General

[37] ICE Trade Vault has deleted the definition of ''Ancillary Services'' in its Guidebook (Exhibit GG.2). In this context, Section 3.1 of the Guidebook on Fair and Open Access Policy now provides that ''[e]xcept for ancillary services that ICE Trade Vault is required to provide under SEC rules, access to, and use of, the ICE SBSDR Service does not require the use of any ancillary service offered by ICE Trade Vault.'' In addition, ''Ancillary Services'' is no longer described or captured in the context of Section 2.4 in the Guidebook, which discusses ICE Trade Vault service pricing.

[38] The Commission notes that SDRs are not self-regulatory organizations as defined in Section 3(a)(26) of the Exchange Act. *See* 15 U.S.C. 78c(a)(26).

[39] ICE Trade Vault defines ''SBSDR Information'' in its Guidebook as ''[a]ny information that ICE Trade Vault receives from Users or maintains on their behalf as part of the ICE SBSDR Service.''

Counsel conclude that limitation or revocation of access pursuant to an Access Determination made by the CCO would constitute unreasonable discrimination, the President and General Counsel shall take such actions as are necessary to maintain or restore access to the System, the ICE SBSDR Service or SBSDR Information, as applicable.

4. Review and Dispute of Revocation of Access

In its Amended Form SDR, in Section 3.4 of the revised Guidebook, ICE Trade Vault provides more procedures about the review and dispute of revocation of access:

• Following notice of an Access Determination to a User that does not involve an Immediate Revocation, revocation of such User's access shall occur only after User has been given an opportunity to contest the determination before the Board of Directors within 10 business days of such notice. In the event of an Immediate Revocation, a User shall be entitled to notice and opportunity to contest within 10 business days of such revocation.

• In order to contest an Access Determination, the User must notify ICE Trade Vault within 1 business day of notice of such determination. A meeting to address the determination shall occur as promptly as possible within the timeframes specified in this Section 3.4 and may be held by telephone, in person or via such other means as are acceptable to ICE Trade Vault. ICE Trade Vault and User will each be responsible for their own expenses in participating in the meeting.

• The User shall be notified of the time, place and date of the hearing not less than 2 business days in advance of such date.

• At the meeting, the User will have an opportunity to present evidence before the Board of Directors. The User is not required to, but may be if it wishes, represented by counsel at User's sole expense except as provided below.

• Within 5 business days after the meeting, a majority of the Board of Directors will either affirm or reverse the Access Determination. The User shall be notified in writing of the Board of Directors' decision. If the Board of Directors decides to affirm the Access Determination, the notification shall include the grounds for such decision. The Board of Director's decision shall become final and effective once notified to the User.

A record shall be kept of any meeting held in accordance with this Section 3.4. The cost of the transcript may be charged in whole or in part to the User in the event that the Access Determination is affirmed.

5. Notification of the SEC

Rule 909 of Regulation SBSR requires each registered SDR to register as a SIP. As such, Exchange Act Section 11A(b)(5)—which requires a SIP to promptly notify the Commission if it prohibits or limits any person in respect of access to services offered, directly or indirectly by the SIP—also applies to an SDR.[40] Accordingly, an SDR must promptly notify the Commission if it prohibits or limits access to any of its services to any person.[41]

In its Amended Form SDR, in Section 3.5 of the revised Guidebook, ICE Trade Vault provides the following information about its procedures for notifying the Commission:[42]

If the Board of Directors affirms an Access Determination, ICE Trade Vault shall promptly file notice thereof with the SEC in such form and with such information as the SEC may prescribe. ICE Trade Vault will also notify the SEC of all final Access Determinations by ICE Trade Vault in its annual amendment to its Form SDR. Any notice to the SEC of an Access Determination shall be subject to review by the SEC on its own motion, or upon application to the SEC by the User whose access has been limited or revoked (the ''Suspended User''), within thirty days after notice of the Access Determination has been filed with the SEC and received by the Suspended User. Application to the SEC for review, or the initiation of review by the SEC on its own motion, will not operate as a stay of the Access Determination unless the SEC so orders. If the SEC deems it appropriate, it will establish an expedited procedure to determine whether a stay is warranted.

After a hearing on the merits of an Access Determination, the SEC may determine that the Suspended User has not been discriminated against unfairly and dismiss the proceedings or, determine that the Access Determination imposes a burden on competition which is not justified under Applicable Law and set aside the Access Determination and require ICE Trade Vault to restore access to the Suspended User. If ICE Trade Vault is required to restore access to the Suspended User, it shall do so within 1 business day of receipt of such order from the SEC.

6. Implementation of a Revocation of Access

In its Amended Form SDR, in Section 3.6 of the revised Guidebook, ICE Trade Vault provides procedural information about the implementation of a revocation of access:

Upon an Access Determination becoming effective (whether due to an Immediate Revocation or because the User has not requested a hearing within five business days of receipt of its notice of Access Determination or the Board of Directors affirmed an Access Determination), ICE Trade Vault will notify the User (the ''Terminated User'') of the effective date of revocation of access. The notice provided to the Terminated User will also specify how any pending submissions will be handled. ICE Trade Vault will take all necessary steps to terminate the Terminated User's license to access and use the System in accordance with the Access Determination, including by cancelling such User's ID and password(s).

Upon the termination of a Terminated User's access, ICE Trade Vault will, as soon as possible, notify all other Users of the revocation of access. ICE Trade Vault's notice to other Users will provide, to the extent relevant, information on how pending transaction submissions and other pending matters will be impacted by the Access Determination and what steps are to be taken by all affected parties.

ICE Trade Vault shall not accept any submission from a Terminated User that was effected after the time at which the Access Determination became effective. If a Terminated User has satisfied all outstanding obligations to ICE Trade Vault, ICE Trade Vault will consider allowing a Terminated User to submit data via a Third Party Reporter on a case-by-case basis.

*D. Policies and Procedures on Regulator Access*

Exchange Act Sections 13(n)(5)(G) and (H) conditionally require SDRs to make SBS data available to certain named authorities and other persons that the Commission has deemed to be appropriate. The Commission adopted Exchange Act Rules 13n–4(b)(9), (b)(10) and (d) to implement this data access requirement.

In its Amended Form SDR, in Section 3.1.3 of the revised Guidebook, ICE Trade Vault proposes that any regulator requiring or requesting access to SBS data should contact the Chief Compliance Officer and ''certify that it is acting within the scope of its jurisdiction and a Memorandum of Understanding between such Regulator and the SEC that is in full force an effect (an 'MOU').'' ICE Trade Vault further proposes to notify the SEC of any initial request from a regulator for data access, and states that afterward, following execution of necessary documentation, ICE Trade Vault would provide the Regulator with access to SBS data to the extent consistent and compliant with confidentiality conditions imposed by applicable law and any relevant MOU. In Section 3.1.3, ICE Trade Vault also states that access may include, when permitted by applicable law and a relevant MOU, tools for monitoring, screening and analyzing SBS trade information.

*E. Policies and Procedures Related to the Correction of Errors*

Exchange Act Rule 13n–5(b)(6) requires that each SDR establish procedures and provide facilities reasonably designed to effectively resolve disputes over the accuracy of transaction data and positions that are

[40] *See* SDR Adopting Release, 80 FR at 14482.

[41] *See id.*

[42] Section 3.5 mirrors the provisions of Exchange Act Section 11A(b)(5).

maintained and recorded in the SDR.[43] If a reporting side discovers that information previously submitted to an SDR contains errors, Rule 905(a) of Regulation SBSR requires any counterparty or other person having a duty to report an SBS transaction that discovers an error in information previously reported pursuant to Regulation SBSR to correct such errors in accordance with the procedures specified in Rules 905(a)(1)–(2).[44] Rule 905(b) of Regulation SBSR then requires the SDR to correct such information in its system and, if applicable, to correct the publicly disseminated data.[45]

As part of its Amended Form SDR, ICE Trade Vault proposes changes to its revised Guidebook in relevant sections. In Section 4.2.3, ICE Trade Vault proposes that:

> Users that are non-Reporting Sides may (but are not obligated to) verify or dispute the accuracy of trade information that has been submitted by a Reporting Side to ICE Trade Vault where the non-Reporting Side is identified as the Counterparty by sending a verification message indicating that it verifies or disputes such trade information. . . . If the non-Reporting Side is not a User, the non-Reporting Side should contact ICE Trade Vault (*TradeVaultSupport@theice.com*) to register for access to the SBSDR Service and its trade information.

In Section 4.6, ICE Trade Vault proposes the following clarifying information with regard to its error correction processes:

> In accordance with Exchange Act Rule 905(a), Users are responsible for the timely resolution of errors contained in trade information that they submit to ICE Trade Vault. ICE Trade Vault provides Users electronic methods to extract SBSDR Information for reconciliation purposes. If the Reporting Side discovers an error contained in the trade information that it previously submitted to the System, or receives notification from a Counterparty of an error, the Reporting Side shall promptly submit to the System amended trade information that remediates such error. If the non-Reporting Side discovers an error contained in the trade information submitted to the System on its behalf, that Counterparty shall promptly notify the Reporting Side of such error. Both Platforms and Clearing Agencies are similarly required to promptly notify ICE Trade Vault of any trade information submitted in error to the System. In accordance with Exchange Act Rule 905(b), the SBSDR, upon discovery of an error or receipt of notice of an error, will verify the accuracy of the terms of the Security-based swap and, following such verification, promptly correct the erroneous information regarding such Security-based swap contained in its system. ICE Trade Vault will disseminate a corrected transaction report in instances where the initial report included erroneous primary trade information.

In Section 4.6.1, ICE Trade Vault provides more information about the applicable dispute resolution process which varies depending on whether the data for a reported transaction was submitted by a clearing agency or a platform, or for transactions that were neither cleared nor executed on a platform (and were thus reported by a designated counterparty):

> Disputes involving clearing transactions shall be resolved in accordance with the Clearing Agency's rules and Applicable Law. For an alpha Security-based swap executed on a Platform and reported by a Platform User, disputes must be resolved in accordance with the Platform's rules and Applicable Law. For Security-based swaps that are reported by a User that is neither a Platform nor a Clearing Agency, Counterparties shall resolve disputes with respect to SBSDR Information in accordance with the Counterparties' master trading agreement and Applicable Law.
>
> Users are required to promptly notify ICE Trade Vault of trade Information that is disputed. Users shall utilize the ''Dispute'' functionality contained in the ICE SBSDR Service to do so. A User can identify disputed SBSDR Information stored in the System by submitting a dispute message via a delimited file upload and populating a ''Y'' value in the ''Dispute Status'' field and the Counterparty ID of the party that initiated the dispute in the ''Disputing Party'' field. The SBSDR Information associated with the Security-based swap will be deemed ''Disputed'' until such time that the Counterparty that initiated the dispute process submits a message to the System indicating that the SBSDR Information is no longer in dispute by submitting a dispute message via a delimited file upload and populating a ''N'' value in the ''Dispute Status''. ICE SBSDR Service will provide Regulators with reports identifying the SBSDR Information that is deemed disputed.

In Section 4.7 of the revised Guidebook, ICE Trade Vault also clarifies that ''Error Correction'' will be an available flag that ''[i]ndicates that the data reflects a correction to previously submitted information on a Security-based swap and that the report does not represent a new transaction, but merely a revision of a previous transaction.''

*F. Certain Policies and Procedures Related to Compliance With Regulation SBSR*

As part of its Amended Form SDR, ICE Trade Vault revises several aspects of its application that relate to compliance with Regulation SBSR. As discussed below, ICE Trade Vault provides additional detail to clarify how it intends to support the reporting of SBS information and the manner in which it will publicly disseminate SBS transaction, volume and pricing information.

1. Policies and Procedures for Reporting SBS Transactions

Rule 907 of Regulation SBSR requires an SDR to establish and make publicly available certain policies and procedures, which include the specific data elements that must be reported, acceptable data formats, and the procedures for reporting life cycle events and error corrections.[46] As discussed below, ICE Trade Vault expands the discussion in its Guidebook related to the reporting of a number of categories of SBS transactions, including historical SBS, exotic SBS, package transactions, SBS that have been submitted to clearing and the reporting of life cycle events. In addition to the revisions in the Guidebook, ICE Trade Vault also revises Exhibit N.5 (''Fields and Validations''), which contains the data fields, required formats and validations for the data Users must submit. In its revised Exhibit N.5, ICE Trade Vault provides additional information on the required data fields and which fields are subject to public dissemination. For more information on the content of Exhibit N.5, interested persons may review that exhibit.

a. Policies and Procedures for Reporting Historical SBS

In its Amended Form SDR, ICE Trade Vault expands the discussion in its revised Guidebook related to the reporting of historical SBS to clarify how Users must report such transactions. Section 4.2.5.4 of the revised Guidebook now states that ''[i]n accordance with Exchange Act Rule 901(i), Users must report all of the information required by Exchange Act

[43] *See* 17 CFR 240.13n–5(b)(6); *see also* SDR Adopting Release, 80 FR at 14497.

[44] *See* 17 CFR 240.905(a). Rule 905(a)(1) provides that if a person that was not the reporting side for a SBS transaction discovers an error in the information reported with respect to such SBS, that person shall promptly notify the person having the duty to report the SBS of the error. *See* 17 CFR 240.905(a)(1). Rule 905(a)(2) provides that if the person having the duty to report a SBS transaction discovers an error in the information reported with respect to a SBS, or receives notification from a counterparty of an error, such person shall promptly submit to the entity to which the SBS was originally reported an amended report pertaining to the original transaction report. If the person having the duty to report reported the initial transaction to a registered security-based swap data repository, such person shall submit an amended report to the registered security-based swap data repository in a manner consistent with the policies and procedures contemplated by § 242.907(a)(3). *See* 17 CFR 240.905(a)(2).

[45] *See* 17 CFR 240.905(b).

[46] *See* 17 CFR 240.907.

Rule 901(c) and 901(d) that is available for the Historical Security-Based Swaps they are reporting and must indicate whether the swap is open at the time of the report.'' Revised Section 4.2.5.4 also provides additional clarity on how Users must submit historical SBS transactions to ICE Trade Vault:

The System will accept Historical Security-based swaps via API submissions in the Extensible Markup Language (''XML'') format. For the avoidance of doubt, only Users may submit trade information to the System. Where a field is not applicable for a historical submission, a ''Not Applicable'' indicator should be submitted.

b. Policies and Procedures for Reporting Exotic SBS

As part of its revised Guidebook, ICE Trade Vault provides additional clarity related to the reporting of transactions in exotic SBS by further explaining the process in Section 4.2.5.5:

ICE Trade Vault supports the reporting of highly customized and bespoke Security-based swaps which are commonly referred to as ''exotic swaps''. A Security-based swap will be considered exotic when the information reported pursuant to Exchange Act Rule 901(c)(1)(i)–(iv) does not provide all of the material information necessary to identify the Security-based swap or does not contain the data elements necessary to calculate the price. Users shall report the terms of any fixed or floating rate payments, or otherwise customized or non-standard payment streams, including the frequency and contingencies of any such payments with respect to exotic Security-based swaps. Users should submit exotics under the exotic product identifier, and, where a field is not applicable for an exotic submission, a ''Not Applicable'' indicator should be submitted. To ensure that users of public reports of ''exotic swaps'' do not get a distorted view of the market, Users shall submit a value of ''Y'' for the flag indicating that the Security-based swap is customized and does not provide all of the material information necessary to identify such customized Security-based swap or does not contain the data elements necessary to calculate the price.

In revised Section 6.5 if its revised Guidebook, ICE Trade Vault also clarifies that Product IDs for ''[e]xotic and basket products will be created upon request when there is need to execute a trade that does not conform to the current product structure.''

c. Policies and Procedures for Reporting Package Transactions

The revised Guidebook includes additional clarity related to the reporting of package transactions. Specifically, in Section 4.2.5.6 of its revised Guidebook, ICE Trade Vault proposes the following:

ICE Trade Vault supports the reporting of package Security-based swaps. For Security-based swaps that were executed as ad-hoc spread or package transactions, Users should submit trade information in accordance with the appropriate product identifiers with a Transaction ID per leg of the package transaction with each indicating it is part of a package trade with a Package ID included on each to link the Security-based swaps. To ensure that users of public reports of ''package swaps'' do not get a distorted view of the market, Users shall submit a value of ''Y'' for the flag indicating that the Security-based swap is part of a package.

d. Policies and Procedures for Reporting SBS Submitted to Clearing

For SBS transactions that are submitted to clearing, ICE Trade Vault includes in its revised Guidebook greater detail on how such transactions must be reported, including how it will process a clearing message that is received prior to the initial SBS transaction message (an ''alpha'' transaction message).[47] Specifically, Section 4.2.5.7 of the revised Guidebook states:

The Clearing Agency must submit the Cleared Novation Termination or Rejection message for the alpha Security-based swap to the SBSDR where the alpha was reported. The Cleared Novation message to terminate an alpha must be submitted by a Clearing Agency User and include the alpha Transaction ID, alpha SBSDR, alpha's buyer and seller IDs, beta and gamma Transaction IDs, action type, Life Cycle Event, and clearing acceptance timestamps. Upon receiving a cleared novation termination message, ICE Trade Vault will validate that it currently has the related alpha trade to be terminated; if it does not have the alpha trade, the Cleared Novation message will fail. If the Cleared Novation message fails on the first attempt to report, the Clearing Agency should attempt to report it again at the end of the following business day. If the Cleared Novation message still fails, the Clearing Agency should contact the counterparties to confirm the accuracy of the alpha trade's Transaction ID and the SBSDR to which it was to be reported.

e. Policies and Procedures for Reporting Life Cycle Events

In its revised Guidebook, ICE Trade Vault also provides additional detail on the reporting of life cycle events, stating in Section 4.2.5.10:

In accordance with Exchange Act Rule 901(e) and 901(j), Users must report Life Cycle Events for previously submitted trade information to the System within 24 hours of the occurrence of a Life Cycle Event, or if 24 hours falls on a day that is not a business day, by the same time on the next business day. Users shall include the ''Previous Transaction ID'' for the original trade in association with Life Cycle Events. Users will submit the full updated or new trade terms which resulted from the Life Cycle Event and include the ''Life Cycle Event Status'' to indicate the event which occurred. The System will accept Life Cycle Events via API submissions in the ExtensibleMarkup Language (''XML'') format. For the avoidance of doubt, only Users may submit trade information to the System.

In addition, in Section 4.4 of its revised Guidebook ICE Trade Vault added the life cycle event status of ''Cleared Novation'' and made adjustments to other Life Cycle Event Status titles and descriptions.

f. Policies and Procedures for Agent and Other Reporting Entity Reporting

In its Amended Form SDR, ICE Trade Vault clarifies how execution agents, registered broker-dealers, and third party reporters may report on behalf of counterparties. These revisions have implications relating to the application of fees by ICE Trade Vault, the reporting of parent and affiliate information, and the reporting of missing UIC information.

As discussed above, the revisions ICE Trade Vault made to its Guidebook provide for execution agents, registered broker-dealers and third party reporters becoming Users.[48] In addition, ICE Trade Vault includes a separate section on ''Other Reporting Entities'' in Section 4.2.4 of its Guidebook that provides:

A Platform on which a Security-based swap was executed and submitted for clearing to a Clearing Agency shall report to an SBSDR certain information as required under Applicable SEC Regulations and promptly provide that Clearing Agency with the Transaction ID of the submitted Security-based swap and the identity of the SBSDR to which the transaction will be reported.

In accordance with Exchange Act Rule 906(c), each User that is a Platform, or a registered broker-dealer (including a registered SBSEF) shall establish, maintain, and enforce written policies and procedures that are reasonably designed to ensure that it complies with any obligations to report information to the ICE SBSDR Service in a

[47] In the agency model for clearing of swap transactions, which predominates in the United States, a swap that is submitted to clearing—typically referred to in the industry as an ''alpha''—is, if accepted by the clearing agency, terminated and replaced with two new swaps, known as the ''beta'' and ''gamma.'' One of the direct counterparties to the alpha becomes a direct counterparty to the beta, the other direct counterparty to the alpha becomes a direct counterparty to the gamma, and the clearing agency becomes a direct counterparty to each of the beta and the gamma. To facilitate linking together the alpha, beta, and gamma transaction reports, Rule 901(d)(10) requires that the transaction ID of the alpha be included in transaction reports of the beta and gamma.

[48] ICE Trade Vault has also includes in its revised application Exhibit U.2 (ICE Trade Vault Security-Based SDR User Agreement). This user agreement sets out the terms on which ICE Trade Vault will provide Users with access to the ICE Trade Vault Platform.

manner consistent with Applicable SEC Regulations. Each such User shall review and update its policies and procedures at least once annually in accordance with Exchange Act Rule 906(c).

In addition, ICE Trade Vault updates Section 4.10 of its Guidebook concerning the reporting of missing UIC information to reflect how participants that connect via execution agents or third party reporters may receive missing UIC reports, stating that it ''will make available a report on missing UIC information for each User . . . listed as the Execution Agent or Third Party Reporter'' of a counterparty. Finally, ICE Trade Vault notes in Section 6.2 of its revised Guidebook that all Users must register for an LEI. As a result, execution agents, registered broker-dealers, and third party reporters—as Users—would be required to register for an LEI.

ICE Trade Vault submits new Exhibits N.7 (''Security-Based Swap Data Repository Third Party Reporter Onboarding Process'') and N.8 (''Security-Based Swap Data Repository Execution Agent Onboarding Process'') outlining the onboarding procedures for those entities.[49] ICE Trade Vault revises its fee schedule (Exhibit M.2) to include execution agents and third party reporters.[50] In addition, ICE Trade Vault updates Section 6.3 of its Guidebook to provide that Execution Agent Users and Third Party Reporter Users ''must execute [Exhibit U.5—ICE Trade Vault—Ultimate Parent Affiliate Form] for any parties for which they report who are not Users themselves.''

2. Applying, Identifying and Establishing Flags

Exchange Act Rule 907(a)(4) requires an SDR to have policies and procedures for identifying and establishing flags to denote characteristics or circumstances associated with the execution or reporting of an SBS that could, in the SDR's reasonable estimation, cause a person without knowledge of these characteristic(s) or circumstance(s), to receive a distorted view of the market, and for applying and directing users to apply such flags, as applicable.[51] ICE Trade Vault expands its discussion of the use of flags in its revised Guidebook. In particular, Section 4.7.2 of the revised Guidebook provides detail on the process ICE Trade Vault intends to adopt to determine if additional flags need to be established:

In accordance with Exchange Act Rule 907(a)(4), ICE Trade Vault will consult with its Users regarding the adequacy of the flags listed above to determine whether additional flags are needed. In particular, ICE Trade Vault will formally request, no less than twice per calendar year, that Users identify characteristics of a Security-based swap, or circumstances associated with the execution or reporting of the Security-based swap, that could cause a person without knowledge of these characteristics or circumstances to receive a distorted view of the market. If at any time a User or a recognized industry trade association notifies ICE Trade Vault of the existence of such characteristics and circumstances, and ICE Trade Vault concludes, in its fair and reasonable estimation, that a new flag is needed to prevent a person without knowledge of these characteristics or circumstances from receiving a distorted view of the market, ICE Trade Vault will create such new flags and record them in the Guidebook.

ICE Trade Vault also includes additional updates to the discussion of flags in Section 4.7 of the revised Guidebook by (i) delineating the names and descriptions of its current set of flags, (ii) explaining which flags will prevent public dissemination and how those flags operate, and (iii) clarifying the duty of Users to apply flags.

3. UICs

Rule 903 of Regulation SBSR requires a registered SDR to use UICs.[52] Rule 903(b) further requires the information necessary to interpret any codes used for reporting or public dissemination to be widely available to users of the information on a non-fee basis and without usage restrictions.[53] The following UICs are specifically required by Regulation SBSR: Counterparty ID, product ID, transaction ID, broker ID, execution agent ID, branch ID, trading desk ID, trader ID, platform ID, and ultimate parent ID.[54] In Section 6 of its revised Guidebook, ICE Trade Vault provides additional detail and, in some instances, changes its requirements, with respect to the assignment and reporting of certain UICs. The introduction to Section 6 of the revised Guidebook now provides:

Users reporting on behalf of a Reporting Side must report Reporting Side UIC information as well as the Counterparty ID and Execution Agent ID of the non-Reporting Side and, where applicable, the Clearing Agency ID and Platform ID. Users reporting on behalf of a Platform must report the Counterparty ID or the Execution Agent ID of each Counterparty, as applicable, and the Platform ID. When there is no applicable UIC code for a field, a ''Not Applicable'' value must be submitted in order for the field to be considered reported. Users reporting on behalf of a Reporting Side may submit the non-Reporting Side UIC information, but they are not required to do so. Users reporting on behalf of Reporting Sides and Users reporting on behalf of a Platform can submit all UIC information in the standard Trade Vault SECXML submission message. If the Reporting Side User does not supply the non-Reporting Side's UIC information and the non-Reporting Side is an SEC Participant, then the non-Reporting Side or its Execution Agent or Third Party Reporter (if any) must submit this information to ICE Trade Vault. UICs for the non-Reporting side can be provided using a UIC csv upload containing a minimal number of fields including:

(a) Submitter ID
(b) Submitter ID Source
(c) USI (Transaction ID)
(d) Counterparty 1/Counterparty 2 Branch ID
(e) Counterparty 1/Counterparty 2 Broker ID
(f) Counterparty 1/Counterparty 2 Trading Desk ID
(g) Counterparty 1/Counterparty 2 Trader ID

With respect to the reporting of counterparty, execution agent and broker IDs, ICE Trade Vault states in Section 6.2 of its revised Guidebook:

The SEC has recognized the Global LEI System administered by the Regulatory Oversight Committee (''ROC'') as a standards-setting system with respect to the assignment of IDs to different types of entities, and ICE Trade Vault shall accept LEIs as Counterparty IDs. All Users are required to register for an LEI for themselves. If a Counterparty does not have an LEI at time of reporting, or is not eligible to obtain an LEI, the User reporting the trade must complete a document describing why the Counterparty is reporting without an LEI a minimum of two business days prior to reporting. Please reference Exhibit U.4, ICE Trade Vault Non-Legal Entity Identifier Counterparty Setup Notification Request. Users are expected to inform ICE Trade Vault of the identity of the Counterparties that intend to trade before executing and reporting such Security-based swaps. For entities with an LEI, ICE Trade Vault will verify the entity name and LEI in GLEIF and then make the entity eligible for submission for Users using an LEI. For entities which submit the ICE Trade Vault Non-Legal Entity Identifier Counterparty Setup Notification, ICE Trade Vault will create an Internal ID. Users may then report Security-based swaps using that ID for such entity. If an invalid Counterparty ID, Execution Agent ID or Broker ID is entered, the System will send an error message to the Reporting Side indicating such information and the submission will receive an ''Invalid'' status.

For the reporting of parent and affiliate information, ICE Trade Vault updated Section 6.3 of its revised Guidebook to exempt externally

[49] ICE Trade Vault's Amended Form SDR also includes new Exhibit N.6 (''Security-Based Swap Data Repository User (Counterparty, Platform or Clearing Agency) Onboarding Process''), outlining the onboarding procedures for the entities included therein.

[50] *See supra* Section III.B for a discussion of amended Exhibit M.2.

[51] *See* 17 CFR 240.907(a)(4).

[52] *See* 17 CFR 240.903.

[53] *See* 17 CFR 240.903(b).

[54] *See* 17 CFR 240.900 (defining UIC as ''a unique identification code assigned to a person, unit of a person, product, or transaction'' and further defining those items for which a UIC is to be assigned).

managed investment vehicles from providing such information and explain in more detail how Users should submit parent and affiliate information using a form provided by ICE Trade Vault, stating that:

Execution Agent Users and Third Party Reporter Users must execute this form for any parties for which they report who are not Users themselves. Users (including Execution Agents and Third Party Reporters) shall promptly notify ICE Trade Vault of any changes to such information. Please refer to ''U.5—ICE Trade Vault—Ultimate Parent Affiliate Form'' for further details. This information will be submitted via the U.5 form and not on a trade-by-trade basis itself and should be submitted a minimum of 2 business days prior to reporting. If the non-Reporting Side is not a User, and needs to report this form, the non-Reporting Side should contact ICE Trade Vault (*TradeVaultSupport@theice.com*) to register for access to the SBSDR Service and to submit the Ultimate Parent/Affiliate form.

ICE Trade Vault also updated Section 6.4 of its revised Guidebook pertaining to the reporting of branch, trader and trading desk IDs as follows:

Until an internationally recognized standard-setting system emerges for assigning UICs that meets the SEC's criteria, Users must generate their own Branch IDs, Trader IDs or Trading Desk IDs before reporting a Security-based swap. Users will be required to supply these IDs in a format that is acceptable to ICE Trade Vault. These IDs must consist of alphanumeric characters and be less than 54 characters long that have been concatenated with their LEI to ensure uniqueness across Users. All letters will be upper-cased to prevent duplicate reporting.

Lastly, ICE Trade Vault clarifies the procedures for creating product IDs in Section 6.5 of its revised Guidebook. First, as discussed above, Section 6.5 of the revised Guidebook now states that ''[e]xotic and basket products will be created upon request when there is need to execute a trade that does not conform to the current product structure. Users may submit Product IDs or the underlying taxonomy fields.'' In addition, Section 6.5.1 of the revised Guidebook explains that ''Users shall notify the ICE SBSDR Service of any new Security-based swap products they intend to report a minimum of 2 business days prior to executing and reporting Security-based swaps for that product to ICE Trade Vault by submitting the relevant product information to: *TradeVaultSupport@theice.com*'' and that ''[t]he request should include the data for the prescribed taxonomy fields.'' Finally, ICE Trade Vault also clarifies that ''[i]f a Product ID is not yet established, the trade information submission will fail the validations performed by the System and the Security-based swap will be placed in an 'Invalid' status.'' Nevertheless, when Users submit underlying taxonomy fields rather than a Product ID, ICE Trade Vault continues to direct its Users to provide a Committee on Uniform Security Identification Procedures (CUSIP) number [55] or International Securities Identification Numbering (ISIN) code [56] to report the underlying reference obligation.[57] As with its Initial Form SDR, ICE Trade Vault's Amended Form SDR does not address how it intends to require and accept information regarding the specific underlying asset, including the use of these codes, in a manner that comports with the requirements of Rule 903(b).

4. Reporting Missing UIC Information and Missing UIC Reports

Rule 906(a) of Regulation SBSR requires SDRs to identify any SBS reported to it for which the SDR does not have the counterparty ID and (if applicable) the broker ID, branch ID, execution agent ID, trading desk ID, and trader ID of each direct counterparty.[58] Once a day, SDRs are required to send a report to each participant of the SDR or, if applicable, an execution agent, identifying, for each SBS to which that participant is a counterparty, the SBS for which the SDR is missing UIC information.[59] ICE Trade Vault revised Section 4.10 of its Guidebook to state the following process for communicating to participants that an SBS is missing UIC information:

In accordance with Exchange Act Rule 906(a), a User reporting on behalf of a Reporting Side is required to report its UIC information to the SBSDR. Such a User may also report the non-Reporting Side's UIC information but is not required to do so. A User that is a non-Reporting Side must submit to the System any missing UIC information not provided by the Reporting Side in accordance with Exchange Act Rule 906(a).

ICE Trade Vault will identify in its records any Security-based swap reported to it for which ICE Trade Vault does not have required UIC information. In addition, once a day, the ICE SBSDR Service will make available a report on missing UIC information for each User that is either a Counterparty to a Security-based swap that lacks required UIC information for their side of the Security-based swap or is listed as the Execution Agent or Third Party Reporter of such a Counterparty. It is the duty of each User to login to the System on all business days and verify whether any of its trades have been specified in a missing UIC information report. A User that has trades specified in such a report shall provide the missing information with respect to the relevant side of each Security-based swap referenced in the report to ICE Trade Vault within 24 hours in accordance with Exchange Act Rule 906(a). Failures to provide missing UIC information in a timely manner may be reported to the SEC. For the avoidance of doubt, UIC fields with a ''Not Applicable'' value will not be included in these reports.

ICE Trade Vault also includes revisions to its policies and procedures for reaching out to non-reporting sides that have SBS with missing UIC information in Section 4.10.1 in its revised Guidebook:

If the non-Reporting Side's UIC information is not reported and the non-Reporting Side is an SEC Participant but is not a User of ICE Trade Vault and has not designated a Third Party Reporter or Execution Agent to report on its behalf, ICE Trade Vault will attempt to notify the non-Reporting Side of the missing UIC information using the email address for the non-Reporting Side that was reported by the Reporting Side. Such email notice to the non-Reporting Side will indicate that ICE Trade Vault has received trade information to which the non-Reporting Side is indicated as a party to the trade. The email notice will further indicate the non-Reporting Side's trade information was reported to ICE Trade Vault without the required UIC information and that the non-Reporting Side should contact ICE Trade Vault (*TradeVaultSupport@theice.com*) to register for access to the SBSDR Service in order to provide any missing UICs. If the Reporting Side provided the non-Reporting Side's LEI but elected not to provide an email address for the non-Reporting Side, ICE Trade Vault will attempt to so notify the non-Reporting Side using available email contact information contained in the static data maintained by ICE Trade Vault with respect to market participants, to the extent Trade Vault is permitted by Applicable Law to utilize such data (without contravening, for example, local privacy laws or contractual obligations of ICE Trade Vault).

ICE Trade Vault will not verify the validity of any email address and will not confirm whether any of its email notices were duly received or take further action if an email notice is rejected.

In addition, as outlined in *supra* Section III.B, ICE Trade Vault clarified in its fee schedule that when ''a Reporting Side submits UIC information on behalf of a Non-Reporting Side, that Reporting Side will not be charged an additional reporting fee.'' [60]

[55] CUSIP numbers are nine character alphanumeric codes that uniquely identify securities. The CUSIP system is owned by the American Bankers Association and managed by Standard & Poor's. *See https://www.cusip.com/cusip/about-cgs-identifiers.htm.*

[56] ISIN codes are twelve character alphanumeric codes that uniquely identify securities. In the U.S., ISIN codes are extended versions of CUSIP numbers. *See http://www.isin.org/about/.*

[57] *See* Exhibit N.5.

[58] *See* 17 CFR 240.906(a).

[59] *See id.*

[60] *See* Exhibit M.2.

5. Policies and Procedures for Conducting Public Dissemination of SBS Data

ICE Trade Vault updated the description of how it intends to conduct public dissemination in accordance with Rule 902 of Regulation SBSR in its revised Guidebook. In Section 5, ICE Trade Vault clarifies that reports of publicly disseminated data ''will be available at *www.ICETradeVault.com* and will be widely accessible as defined under Exchange Act Rule 900(tt).'' Furthermore, in Section 5.1, ICE Trade Vault adjusts the prohibition on advance disclosure of SBS transaction information to reflect the requirements of Exchange Act Rule 902(d) by banning Users from disclosing any trade information required to be submitted to ICE Trade Vault prior to submission of such information to ICE Trade Vault. ICE Trade Vault also updates Section 5.3 to (i) clarify the items of information that it will not disseminate [61] and (ii) explain that ''Users of the public dissemination service will be able to use the ticker ID for a particular trade report to link it to subsequent reports of actions and lifecycle events in relation to the subject transaction.''

ICE Trade Vault also amends its Public Dissemination Regulatory Guide (Exhibit N.4), which outlines its policies and procedures for publicly disseminating SBS transaction data. This guide was a confidential exhibit in the Initial Form SDR but is a public exhibit in its Amended Form SDR. The revisions to this guide generally mirror the changes made in Section 5 of the Guidebook described above and serve to provide additional clarity on the manner in which ICE Trade Vault intends to publicly disseminate SBS transaction data and how the public can access disseminated data.

*G. Replace Certain Key Terms and Definitions*

As part of its Amended Form SDR, ICE Trade Vault proposes changes to certain defined terms in Section 1 of its revised Guidebook.

1. ''Verified'' Definition

Exchange Act Rule 905(b) sets forth the duties of a registered SDR relating to corrections. If the registered SDR either discovers an error in a transaction on its system or receives notice of an error from a reporting side, the registered SDR must verify the accuracy of the terms of the SBS and, following such verification, promptly correct the erroneous information contained in its system.

In its Amended Form SDR, ICE Trade Vault proposes to replace the term ''Confirmed'' with the term ''Verified.'' In its Initial Form SDR, ICE Trade Vault had proposed to ''deem[ ] the trade information it receives in respect of a Security-based swap to be Confirmed' if the Security-based swap has been: Accepted by a Clearing Agency, executed on a Platform, deemed confirmed by an electronic confirmation service, or documented in a confirmation that has been submitted to the System to evidence the terms that were agreed upon by the Counterparties.''

ICE Trade Vault now proposes to define the term ''Verified'' as: ''ICE Trade Vault considers the trade information it receives in respect of a Security-based swap to be ''Verified'' if (i) the Security-based swap has been: Submitted by a Clearing Agency User, submitted by a Platform User, or submitted by an electronic confirmation service or affirmation platform User, (ii) the Security-based swap is an inter-affiliate swap or (iii) the non-Reporting Side User has submitted a verification message with respect to the Security-based swap.''

2. ''User'' Definition

ICE Trade Vault proposes to replace the term ''Participant'' with the term ''User'' and clarify which categories of entities may qualify as Users. In its Initial Form SDR, ICE Trade Vault had proposed to use the term ''Participant'' to describe entities that had validly enrolled to use the ICE SBSDR Service, and specified the types of entities eligible for this status would be SBS counterparties, and platforms and clearing agencies that report SBS transactions. In its Amended Form SDR, ICE Trade Vault now proposes to use the term ''User'' instead of ''Participant'' to describe an entity that has validly enrolled to use the ICE SBSDR Service, which distinguishes this term from references to a ''participant'' under Regulation SBSR rules.[62] Furthermore, ICE Trade Vault proposes to expand the types of entities that may be Users to include not only counterparties, platforms and clearing agencies, but also ''Execution Agents,'' [63] ''Third Party Reporters,'' [64] and registered broker-dealers (including registered Security-based swap execution facilities).[65]

*H. Solicitation of Comments*

Interested persons are invited to submit written data, views, and arguments concerning ICE Trade Vault's Amended Form SDR, including whether ICE Trade Vault has satisfied the requirements for registration as an SDR. Commenters are requested, to the extent possible, to provide empirical data and other factual support for their views. As detailed below, the Commission seeks comment on a number of issues, including whether certain policies and procedures are ''reasonably designed,'' which may involve, among other things, being sufficiently detailed. In addition, the Commission seeks comment on the following issues:

1. Exchange Act Section 13(n)(5)(B) requires that all SDRs confirm with both counterparties to the SBS the accuracy of the data that was submitted. Exchange Act Rule 13n–4(b)(3) states that an SDR shall confirm with both counterparties to the SBS the accuracy of the data that was submitted. Exchange Act Rule 13n–5(b)(1)(iii) requires every SDR to establish, maintain, and enforce written policies and procedures reasonably designed to satisfy itself that the transaction data that has been submitted to the SDR is complete and accurate. In this regard, please provide your views as to whether ICE Trade Vault's Amended Form SDR regarding the proposed approach to confirm data accuracy and completeness with non-reporting parties is reasonably designed to allow ICE Trade Vault to meet the requirements of the Exchange Act and the rules thereunder.

2. Exchange Act Rule 13n–4(c)(1)(i) requires that each SDR ensure that any dues, fees, or other charges imposed by, and any discounts or rebates offered by, a SDR are fair and reasonable and not unreasonably discriminatory. The rule also requires such dues, fees, other charges, discounts, or rebates to be applied consistently across all similarly-situated users of the SDR's services. Please provide your views as to whether ICE Trade Vault's Amended Form SDR with regard to its fee schedule is fair and reasonable and not unreasonably discriminatory. Specifically, please provide your views as to whether ICE Trade Vault's Amended Form SDR with regard to its revised approach of a differentiated fee structure for counterparties using Third Party Reporters as compared to those using

[61] ICE Trade Vault removes Non-Mandatory Reports from the list of items that are not subject to dissemination. Revised Section 4.2.5.9 of the Guidebook provides that ''ICE Trade Vault has chosen not to accept Non-Mandatory Reports.''

[62] *See supra* note 24.

[63] ''Execution Agent'' is a newly defined term in ICE's Amended Form SDR. *See supra* note 27.

[64] ''Third Party Reporter'' is a newly defined term in ICE's Amended Form SDR. *See supra* note 26.

[65] The ICE Trade Vault Security-Based SDR User Agreement (Exhibit U.2) has been revised to reflect these proposed changes.

Execution Agents is fair, reasonable and not unreasonably discriminatory and whether those categories of Users represent similarly-situated users of the SDR's services. Further, do commenters believe that the structure and level of the proposed fees will impact market participants' ability to comply with the reporting requirements of Regulation SBSR? In particular, do commenters believe the proposed fees will adversely impact those participants that are not Security-Based Swap Dealers or Major Security-Based Swap Participants (as defined in Exchange Act Section 3)? Considering that SDR fees constitute a potential cost of trading SBS, please also provide your views as to whether the proposed fees (including the differentiated fee structure for Third Party Reporters and Execution Agents described above) will affect market participants' incentives to engage in SBS transactions, given that fees incurred by Users of ICE Trade Vault could be passed on to non-Users. Please also provide your views as to whether the structure and level of the proposed fees will influence current market practice and structure in the SBS market, particularly in respect of mode of execution (*i.e.,* platform-based versus over-the-counter) and post-trade processing (*i.e.,* clearance and settlement).

3. Exchange Act Rule 13n–4(c)(1)(iv) requires that each SDR establish, maintain, and enforce written policies and procedures reasonably designed to review any prohibition or limitation of any person with respect to access to services offered, directly or indirectly, or data maintained by the SDR and to grant such person access to such services or data if such person has been discriminated against unfairly. Please provide your views as to whether ICE Trade Vault's Amended Form SDR with regard to its revised policies and procedures is reasonably designed to provide a mechanism for Users to effectively address ICE Trade Vault's access restrictions.

4. Exchange Act Sections 13(n)(5)(G) and (H) and Exchange Act Rules 13n–4(b)(9), (b)(10) and (d) conditionally require SDRs to make SBS data available to certain authorities. Please provide your views regarding the proposed approach of ICE Trade Vault's Amended Form SDR to that data access requirement. Among other matters, commenters may wish to address the part of the proposal that would condition access on authorities certifying that they are acting within the scope of their jurisdiction (as well as certifying consistency with an applicable memorandum of understanding).

5. Exchange Act Rule 13n–5(b)(6) requires every SDR to establish procedures and to provide facilities reasonably designed to effectively resolve disputes over the accuracy of the transaction data and positions that are recorded in the SDR. Please provide your views as to whether ICE Trade Vault's revised policies and procedures are reasonably designed to provide a mechanism for Users and their counterparties to effectively resolve disputes over the accuracy of SBS data that it maintains. Should the policies and procedures specify timeframes in the dispute resolution process to facilitate timely and conclusive resolution of disputes? Why or why not? Please provide your views as to whether it would be helpful to Users if ICE Trade Vault's revised policies and procedures in Section 3.6 of the Guidebook provided more information with regard to how pending transaction submissions and other pending matters will be impacted where ICE Trade Vault chooses not to accept any submission from a Terminated User with respect to a transaction that was effected after the time at which the Access Determination became effective.

6. Rule 905(b) of Regulation SBSR requires an SDR, upon discovery or receipt of notice of an error, to correct such information in its system and, if applicable, to correct the publicly disseminated data. Please provide your views on ICE Trade Vault's approach to correction of errors in light of Rule 905(b).

7. Exchange Act Rule 13n–5(b)(3) requires every SDR to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that the transaction data and positions that it maintains are complete and accurate. Please provide your views as to whether ICE Trade Vault's revised policies and procedures are reasonably designed to ensure that the transaction data and positions that it maintains are complete and accurate, as required by Rule 13n–5(b)(3).

8. Regulation SBSR imposes duties on various market participants to report SBS transaction information to a registered SDR. Please provide your views as to whether the revised ICE Trade Vault application and the associated policies and procedures provide sufficient information to participants, as defined by Rule 900(u) of Regulation SBSR, about how they would discharge these regulatory duties when reporting to ICE Trade Vault. If applicable, please describe in detail what additional information you believe is necessary to allow a participant to satisfy any reporting obligation that it might incur under Regulation SBSR.

9. Rule 903(b) of Regulation SBSR in part provides that an SDR may permit required data elements to be reported using codes if the information necessary to interpret such codes is widely available to users on a non-fee basis. Notwithstanding this requirement, ICE Trade Vault has proposed to rely on proprietary classification systems such as CUSIP numbers and/or ISIN codes to identify the underlying reference obligation in certain situations, which may subject market participants to fees and usage restrictions in contravention of Rule 903(b). Please provide your views as to whether the approach proposed by ICE Trade Vault would be an appropriate means of reporting that information, or whether use of those proprietary classification systems would unduly increase the cost of compliance with reporting information pursuant to Regulation SBSR or impair access to publicly disseminated data.

10. Rule 901(d)(5) of Regulation SBSR requires reporting sides to report any additional data elements included in the agreement between the counterparties that are necessary for a person to determine the market value of the transaction, to the extent not already provided. Please provide your views as to whether ICE Trade Vault has sufficiently explained how Users can satisfy this requirement and whether ICE Trade Vault's policies and procedures should include specific data categories necessary to determine the market value of a custom basket of securities that underlies a SBS (*e.g.* components and risk weights of the basket).

11. Rule 901(e) of Regulation SBSR requires reporting sides to report life cycle events, and any adjustments due to life cycle events, that results in a change to previously reported primary or secondary trade information. Please provide your views as to whether ICE Trade Vault has provided sufficient information in its Amended Form SDR to explain how a User would report life cycle events under Rule 901(e) of Regulation SBSR. Please describe any additional information that you feel is necessary.

12. Rule 907(a)(4) of Regulation SBSR requires an SDR to have policies and procedures for identifying and establishing flags to denote characteristics or circumstances associated with the execution or reporting of an SBS that could, in the SDR's reasonable estimation, cause a person without knowledge of these characteristic(s) or circumstance(s), to

receive a distorted view of the market, and for applying and directing users to apply such flags, as applicable. Please provide your views as to whether ICE Trade Vault's revised policies and procedures for developing condition flags as required by Rule 907(a)(4) of Regulation SBSR would prevent market participants from receiving a distorted view of the market. Are there additional condition flags that you believe ICE Trade Vault should establish to prevent market participants from receiving a distorted view of the market? If so, please describe such condition flags and explain why you believe that they are appropriate under Rule 907(a)(4).

13. Rule 903(a) of Regulation SBSR provides, in relevant part, that if no system has been recognized by the Commission, or a recognized system has not assigned a UIC to a particular person, unit of a person, or product, the registered SDR shall assign a UIC to that person, unit of person, or product using its own methodology. Please provide your views as to whether the revised approach regarding UICs as described in ICE Trade Vault's Amended Form SDR is appropriate in light of the requirements of Rule 903(a) of Regulation SBSR. Why or why not?

14. Rule 906(a) of Regulation SBSR requires an SDR to send a daily report to each participant of that SDR (or the participant's execution agent), identifying, for each SBS to which that participant is a counterparty, any SBS for which the SDR lacks required UIC information. Please provide your views as to whether ICE Trade Vault's approach to satisfying the requirements of Rule 906(a) are appropriate. Why or why not?

15. Rule 907 of Regulation SBSR generally requires that an SDR have policies and procedures with respect to the reporting and dissemination of data. Please provide your views as to whether ICE Trade Vault has provided sufficient information in its Amended Form SDR (including through the publication of its previously confidential Exhibit N.4) to explain the manner in which ICE Trade Vault intends to publicly disseminate SBS transaction information under Rule 902 of Regulation SBSR. If not, what additional information do you think that ICE Trade Vault should provide about how it intends to effect public dissemination of SBS transactions?

16. Please provide your views as to whether ICE Trade Vault's Amended Form SDR includes sufficient information about how an agent could report SBS transaction information to ICE Trade Vault on behalf of a principal (*i.e.,* a person who has a duty under Regulation SBSR to report). If applicable, please describe any additional information that you believe is necessary.

17. Rule 906(b) of Regulation SBSR imposes a duty on certain participants, as defined by Rule 900(u) of Regulation SBSR, of an SDR to provide such SDR with information sufficient to identify their ultimate parent(s) and any affiliate(s) that are also participants of the SDR using ultimate parent and counterparty IDs, and Rule 907(a)(6) requires an SDR to have policies and procedures in place to obtain such information from its participants. Please provide your views as to whether ICE Trade Vault's policies and procedures for satisfying the requirements of Rule 907(a)(6) are appropriate and provide sufficient information to participants about how they would discharge their regulatory duties under Rule 906(b). If applicable, please describe in detail what additional information you believe is necessary to allow a participant to satisfy its Rule 906(b) obligation.

18. Please provide your views as to whether the replacement of the terms ''confirmed'' with ''verified'' and ''Participant'' with ''User'' in ICE Trade Vault's Guidebook is clear and appropriate. Additionally, please provide your views as to whether the definitions of the terms ''Execution Agent'' and ''Third Party Reporter'' are clear and appropriate.

Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SBSDR–2017–01 on the subject line.

*Paper Comments*

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. All submissions should refer to File Number SBSDR–2017–01.

To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*).

Copies of the Form SDR, all subsequent amendments, all written statements with respect to the Form SDR that are filed with the Commission, and all written communications relating to the Form SDR 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

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 SBSDR–2017–01 and should be submitted on or before August 22, 2017.

By the Commission.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–16173 Filed 7–31–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–81213; File No. SR–ISE–2017–73]**

## Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees

July 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Schedule of Fees, as described further below.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to amend its Schedule of Fees [3] regarding certain connectivity fees for Market Makers.[4] Today, the Exchange charges Market Makers an application programming interface (''API'') fee for connecting to ISE. Each Market Maker session enabled for quoting, order entry, and listening is billed at a rate of $1,000 per month, and allows the Market Maker to submit an average of up to 1.5 million quotes per day.[5] Market Makers must pay for a minimum of two of these sessions, and incremental usage above 1.5 million quotes per day results in the Market Maker being charged for an additional session. Market Makers that achieve Market Maker Plus [6] in 200 or more symbols (other than SPY) have their API fees capped at 200 quoting sessions per month. Market Makers that achieve Market Maker Plus in SPY receive credit for five quoting sessions. Market Makers that quote in all FX option products [7] do not have their FX option quotes counted towards the 1.5 million quote threshold, and receive additional credit for twelve quoting sessions. All credited sessions are applied after the 200 API session cap. Each Market Maker API session that is enabled for order entry and listening is billed at a rate of $750 per month, and each Market Maker API session that is enabled for listening only is billed at a rate of $175 per month.[8]

The Exchange is currently undergoing a migration of the Exchange's trading system to the Nasdaq INET architecture.[9] This migration included the adoption of new connectivity options, including Specialized Quote Feed (''SQF'') [10] port connectivity, which are the same as the connectivity options currently used to connect to the Exchange's affiliates, including Nasdaq GEMX, LLC (''GEMX''), The Nasdaq Options Market LLC (''NOM''), Nasdaq BX (''BX'') and Nasdaq Phlx LLC (''Phlx'').[11] When the Exchange adopted the new SQF port, it did not assess a fee so that Market Makers would not be double charged for connectivity to the old Exchange architecture and the new Nasdaq INET architecture.[12]

The Exchange is providing Market Makers with new SQF ports so that they may access the new Nasdaq INET trading system during the migration period.[13] For purposes of this filing, the Market Maker API sessions on the current T7 trading system will be referred to as ''current API ports'' and the SQF ports on the new INET trading system will be referred to as ''new SQF ports.'' Current API ports will be eliminated after the migration is complete and only new SQF ports will be utilized thereafter. Due to the different infrastructure of the two trading systems, there may not be a one-to-one relationship between the number of the current API and new SQF ports needed to connect to the Exchange. The Exchange expects, however, that the quoting needs and other trading activity of Market Makers will remain relatively constant throughout the migration and across the two platforms. At this time, the Exchange does not have enough experience with the new SQF ports to determine whether Market Makers will need the same number of ports after the migration to conduct their activities on the Exchange, which the Exchange believes will remain relatively consistent as discussed above.

In light of this transition process, the Exchange proposes to assess Market Makers, who are currently subject to the API fees set forth in Section V.C.1 of the Schedule of Fees because they are using the current API ports today (''Current Market Makers''), a fixed monthly fee (''Fixed Fee'') in lieu of charging them the API fees in Section V.C.1, as more fully described below. The Fixed Fee will reflect the average of API fees assessed to each Current Market Maker for the months of March, April and May 2017.[14] The Fixed Fee will be assessed on a monthly basis to Current Market Makers from July 3, 2017 through September 29, 2017, and will apply both to API sessions and SQF ports used to connect to the Exchange.[15] Furthermore, the Exchange will charge Current Market Makers the Fixed Fee for all of the current API and new SQF ports they use in a given month, not per port. No additional fees will be assessed to Current Market Makers for using the current API or new SQF ports from July

[3] The Exchange filed the proposed fee change on July 3, 2017 (SR–ISE–2017–70). On July 13, 2017, the Exchange withdrew that filing and submitted this filing.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[5] Quoting sessions also support order entry and listening. The Exchange separately offers Market Maker API sessions for listening only ($175 per month per API), and for order entry and listening ($750 per month per API).

[6] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer a specified percentage of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months. The specified percentage is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2, and at least 95% of the time for Tier 3. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for Market Maker Plus, if doing so will qualify a Market Maker for Market Maker Plus.

[7] The complete set of FX option products offered is: NZD, PZO, SKA, BRB, AUX, BPX, CDD, EUI, YUK, SFC, AUM, GBP, EUU, and NDO.

[8] A listener may engage in any activity except submit orders and quote, alter orders and cancel orders.

[9] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03).

[10] SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (*e.g.,* opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (*e.g.,* halts, resumes); (5) Execution Messages; (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

[11] *See* GEMX Schedule of Fees, IV. Access Services, Port Fees, 4. Ports; NOM Rules, Chapter XV Options Pricing, Sec. 3 NOM—Ports and other Services; BX Rules, Chapter XV Options Pricing, Sec. 3 BX—Ports and other Services; and Phlx Pricing Schedule, VII. Other Member Fees, B. Port Fees.

[12] *See* Securities Exchange Release No. 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017) (SR–ISE–2017–62).

[13] The Exchange will migrate on a symbol by symbol basis thereby requiring the use of both the current Market Maker API sessions and the new SQF ports for a period of time.

[14] All Current Market Makers have been utilizing the current API ports to connect to the Exchange's trading system during this three month look back period. The Exchange did not include June 2017 as part of the look back period because a number of symbols had already migrated onto the new INET trading system at that time, thereby requiring Current Market Makers to use both the current Market Maker API sessions and the new SQF ports. As such, June 2017 would not be an accurate representation of the number of API sessions typically enabled by a Current Market Maker.

[15] The Exchange will notify each Current Market Maker impacted by this proposal in writing, either via email or letter, of the amount of their Fixed Fee.

3, 2017 through September 29, 2017 beyond the Fixed Fee.

A Market Maker that was not subject to any API fees in Section V.C.1 prior to July 3, 2017, because it did not utilize current API ports (*i.e.,* a ''New Market Maker''), will be assessed a SQF Port Fee of $1,000 per month per port from July 3, 2017 to September 29, 2017 instead of the Fixed Fee.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[18] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The concept of a fixed fee is not novel. A fixed monthly fee was previously adopted on Phlx in connection with active SQF port fees for specialists and market makers.[19]

The Exchange believes that the proposed Fixed Fee assessed to Current Market Makers is reasonable and equitable for a number of reasons. As noted above, Current Market Makers will need to connect to the Exchange using both current API and new SQF ports for a period of time because the Exchange will migrate to the new INET system on a symbol by symbol basis. The Exchange does not intend to charge duplicative fees to Current Market Makers for connecting to both trading systems. To address this, Current Market Makers will be charged the Fixed Fee in lieu of the API fees set forth in Section V.C.1 of the Schedule of Fees. This Fixed Fee will apply to both the current API ports and the new SQF ports used to connect to the Exchange, and will be assessed for all of the current API ports and new SQF ports Current Market Makers use in a given month, not per port. As discussed above, Current Market Makers that are being assessed the Fixed Fee will not be subject to any additional fees through September 29, 2017 beyond the Fixed Fee for utilizing any new SQF ports. The Exchange believes that applying the Fixed Fee in this manner will ease the transition and would help ensure that these members will not be charged duplicative fees for using both connectivity options.

Furthermore, the Exchange believes that averaging the months of March, April and May 2017 for the Fixed Fee that will be assessed from July 3, 2017 through September 29, 2017 is reasonable because the Exchange desires to offer Current Market Makers who are using the current API ports today some certainty with respect to their costs through transition period. The Exchange believes that utilizing the months of March, April and May 2017 to determine the Fixed Fee is reasonable because it should be an accurate representation of the number of API sessions typically enabled by that particular Market Maker. The three month window reflects the typical pattern of usage for the Market Maker.

Additionally, the Exchange believes that the proposed Fixed Fee is equitable and not unfairly discriminatory for a number of reasons. First, the Fixed Fee will be applied in the same manner to all Current Market Makers by averaging the API fees assessed to them for the months of March, April and May 2017. It should be noted that while the API fee amounts underlying the Fixed Fee generally may be higher or lower for a member based on a Current Market Maker's quoting needs and other trading activity (which in turn affects the Fixed Fee amounts for that Current Market Maker), same API fee amount applies equally to all similarly situated market participants based on their quoting needs and other trading activity.[20] For example, each current API port used by a Current Market Maker for quoting, order entry and listening is billed at a rate of $1,000 per month on the Exchange today. While the number of such API ports a Current Market Maker uses may differ each month, the same $1,000 fee would be applied for each usage of the API port. As such, the Exchange believes that it is still fair and equitable to charge different fee amounts for the Fixed Fee because this fee will still treat similarly situated members in the same manner by assessing the same fees based on what the Exchange believes is a typical representation of their quoting or other trading needs. As noted above, the Exchange recognizes that Current Market Makers may not need the same number of ports post-migration due to the different architecture of the two trading systems. The Exchange expects, however, that the quoting needs and other trading activity of Market Makers will relatively remain constant throughout the migration and across the two platforms. As such, even though the proposed Fixed Fee amounts may differ among the Current Market Makers, the Exchange will still treat similarly situated members in the same manner by assessing the Fixed Fee based on the same criteria.

The Exchange believes that assessing New Market Makers the proposed SQF Port Fee as of July 3, 2017 is reasonable because New Market Makers would not need to maintain two sets of ports during the migration period, unlike existing Market Makers who are currently transitioning from T7 to INET.[21] The Exchange also believes that it is reasonable to charge these new Market Makers the monthly $1,000 SQF port fee as of July 3, 2017 because it is equal to the monthly $1,000 API fee the Exchange charges Market Makers for the current API ports today. The Exchange also notes that the proposed SQF port fee is less than the $1,500 port fee Bats BZX Exchange, Inc. (''BATS BZX'') assesses to its market makers for Ports with Bulk Quoting Capabilities.[22]

The Exchange believes that assessing New Market Makers the proposed $1,000 SQF Port Fee if they do not use current API ports today is equitable and not unfairly discriminatory because the Exchange will apply the proposed fee

[16] The Exchange does not anticipate any New Market Makers seeking to use the current API ports to connect to the existing T7 trading system for the time period between July 3, 2017 and September 29, 2017 given the cost of technology and development resources required to connect to an exchange. Furthermore, the Exchange also does not anticipate any new Market Makers seeking to use the new SQF ports to connect to the INET trading system during this three month period.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) and (5).

[19] *See* Securities Exchange Release No. 73687 (November 25, 2014), 79 FR 71485 (December 2, 2014) (SR–Phlx–2014–73). As part of a technology refresh of the Phlx trading system, this proposal allowed specialists and market makers on Phlx (*i.e.,* the existing specialists and market makers) to pay a fixed monthly fee for both their new and old SQF ports from December 1, 2014 to March 31, 2015 in lieu of the existing port fees they otherwise would have been charged by Phlx for their old SQF ports. The fixed monthly fee was calculated by taking the average of fees assessed to the Phlx specialists and market makers for the months of August, September and October 2014. In order to qualify for the option of paying the fixed fee, the specialist or market maker must have been using the old SQF ports to connect to Phlx's trading system prior to December 1, 2014. For specialists or market makers who were not using the old SQF ports prior to December 1, 2014 but who sought to use the new SQF ports (*i.e.,* new specialists and market makers), Phlx charged a separate fee per new SQF port they used per month instead of the fixed fee.

[20] As discussed above, the Exchange believes that the proposed three month look back period for the months of March, April and May 2017 reveals a typical pattern of usage for a particular Current Market Maker. The Exchange anticipates that the three month period between July 3, 2017 and September 29, 2017 would likewise be an accurate representation of the quoting needs and trading activity of such Current Market Maker.

[21] As noted above, the Exchange does not anticipate any New Market Makers seeking to use the new SQF ports to connect to the INET trading system during this three month period.

[22] *See* BATS BZX's Fee Schedule at: *https://www.bats.com/us/options/membership/fee_schedule/bzx/.*

uniformly to all similarly situated market participants. The Exchange also believes that it is equitable and not unfairly discriminatory to assess New Market Makers a different fee than the Current Market Makers because New Market Makers were not utilizing the current API ports during the months of March, April and May 2017. As such, it will not be possible to calculate the Fixed Fee for new Market Makers given they do not have a three month look-back period to base a Fixed Fee on. Furthermore, the proposed SQF Port Fee amount is equivalent to the monthly $1,000 API fee the Exchange currently charges for each Market Maker API session enabled for quoting, order entry and listening on T7. As discussed above, the Exchange recognizes that Market Makers may not need the same level of connectivity after the migration for conducting largely the same quoting and trading activities due to the different architecture of the two platforms. As such, the Exchange represents that it will reassess the proposed SQF Port Fee in the event a New Market Maker seeks to use new SQF ports during the three month period ending September 29, 2017.

Lastly, the Exchange believes it is reasonable to assess the proposed Fixed Fee to Current Market Makers, as well as the proposed SQF Port Fee to New Market Makers, from July 3, 2017 through September 29, 2017. The Exchange will use this time period to monitor the manner in which all Market Makers connect to the new INET trading system, and will reassess whether the proposed fees are adequate and reasonable.

The Exchange further believes that the proposed three month duration for both the proposed Fixed Fee and the proposed SQF Port Fee is equitable and not unfairly discriminatory because this duration will apply uniformly for all Market Makers.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[23] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the Exchange is establishing fees for connecting to the Exchange in order to aid in the migration to INET architecture. Current Market Makers that are transitioning from the current API ports to the new SQF ports will be assessed a Fixed Fee that is representative of their typical usage, and will not be subject to additional fees for utilizing any new SQF ports. In addition, new Market Makers will be assessed the proposed $1,000 SQF Port Fee as of July 3, 2017 if they do not use the current API ports today. For the reasons described above, the Exchange does not believe that assessing the proposed fees will have any competitive impact.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[24] and Rule 19b–4(f)(2) [25] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–73 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–ISE–2017–73. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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–ISE–2017–73 and should be submitted on or before August 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–16109 Filed 7–31–17; 8:45 am]

**BILLING CODE 8011–01–P**

[23] 15 U.S.C. 78f(b)(8).

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 240.19b–4(f)(2).

[26] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No 34–81230; File No. SR–Phlx–2017–34]**

## Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing of Proposed Rule Change To Add Functionality to the Options Floor Broker Management System

July 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 18, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to add functionality to the Options Floor Broker Management System (''FBMS''), the electronic system through which Exchange Floor Brokers transmit orders to the Exchange's trading system (''System''). The Exchange also proposes to amend Options Floor Procedure Advice C–2.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet .com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

*Overview of FBMS.* As described in Exchange Rule 1063, the Floor Broker Management System or FBMS is the electronic system that enables Floor Brokers to submit option orders represented on the Exchange trading floor (the ''Floor'') to the Exchange's Trading System for execution and reporting to the consolidated tape. FBMS also facilitates the creation of an electronic audit trail for such orders.

Specifically, when a Floor Broker agrees to the terms of a trade on the Floor, then the Floor Broker memorializes the terms by entering the information into the FBMS software application using either a handheld tablet or a desktop computer. After the Floor Broker enters the trade terms into FBMS, the Floor Broker directs FBMS to transmit the information to the Exchange's automated Trading System.

Upon receipt, the Trading System immediately verifies whether the terms of the trade comply with the Exchange's trade-through and priority requirements. It does so by comparing the terms of the trade to the market that prevailed at the time that the Trading System received the trade from FBMS. If the Trading System determines, at the time of receipt, that the trade violates either the trade-through rule or applicable priority requirements, then the Trading System rejects the trade. However, if the Trading System verifies that the trade complies with the applicable rules, then the Trading System will proceed to execute the trade and report the execution to the consolidated tape for dissemination to the public.

FBMS provides numerous benefits to Floor Brokers, their Customers, and the Exchange. Notably, it helps to ensure fair and orderly trading by automating the enforcement of priority and trade-through rules for on-Floor trades and rendering the enforcement of such rules consistent for both on-Floor and off-Floor trading. FBMS also facilitates trading surveillance by capturing a fulsome audit trail for all options orders that Floor Brokers enter into it.

Notwithstanding the benefits of FMBS, the simplicity of its design and the universality of its application also sometimes generate unintended adverse consequences for Floor Brokers, their Customers, and the Exchange. The circumstances in which these adverse consequences arise are as follows.

Unlike routine trades, which Floor Brokers typically submit from FBMS to the Trading System almost instantaneously after coming to an agreement to their terms in open outcry on the Floor, certain Floor trades involve Multi-leg Orders,[3] which require Floor Brokers to spend several seconds or more to fully calculate or reconcile their terms before the Floor Brokers are ready and able to submit them to the Trading System. For example, the Exchange estimates that the following tasks associated with reconciling the terms of Multi-leg Orders would require the following time periods to complete:

- The announced/negotiated price of a Multi-leg Order differs from that which was entered on the order but is in the allowable minimum price variation (''MPV'') (4 seconds);
- The announced/negotiated volume of a Multi-leg Order differs from that which was entered on the order (4 seconds);
- The announced/negotiated volume and price of a Multi-leg Order differs from that which was entered on the order, but the price is in the allowable MPV (7 seconds);
- The Multi-leg Order requires the use of the Complex Calculator to change the volume and/or price for one leg (9 seconds); and
- The Multi-leg Order requires the use of the Complex Calculator to enter all prices and volumes for: (i) 2 legs (14 seconds); 5 legs (27 seconds); 10 legs (51 seconds); and 15 legs (69 seconds).

While the near-instantaneous entry of information about routine trades typically mitigates the risk that market conditions will shift between the time when Floor Brokers agree upon the terms of such trades on the Floor and the time when the Trading System receives the trades for verification and execution, the same cannot be said for trades involving Multi-leg Orders. A heightened risk exists that, during any extended delay that occurs between the time when Floor Brokers come to an agreement on the terms of a trade involving a Multi-leg Order and the time when the Broker submits the trade to the Trading System, market conditions will shift in a way that will render the trade inconsistent with Exchange's priority and trade-through rules, such that the Trading System will reject the trade.

Simple orders in certain options are also susceptible to this risk when the markets for such options are volatile or prone to rapid changes—even during a short time frame between the time of agreement to the terms of a trade on the Floor and Trading System receipt. The market for options on exchange traded funds (''ETFs'') in the Penny Options Pilot is an example of a market that tends to shift rapidly.

When the aforementioned scenarios occur, they harm Floor Brokers, their Customers, and the Exchange. In particular, a Customer experiences harm when a trade that a Floor Broker agrees to on its behalf cannot be executed on the terms agreed upon by the parties, if at all. This harm is unfair in that it occurs, not because the Customer's trade is invalid when agreed upon, but instead because the Floor Broker finds it humanly impossible to reconcile the trade details in FBMS and submit the trade to the Trading System quickly enough to keep pace with the market—a market that is often dominated by electronic trading algorithms that update quotations in nanoseconds rather than seconds. Meanwhile, a Floor Broker suffers financially when he or she is unable to execute a trade on behalf of his or her client. Finally, the

[3] *See* Rule 1066(f) (defining the term ''Multi-leg Orders'').

Exchange suffers when, as a result of all of the foregoing, Floor Brokers and their Customers forego trading on the Floor of the Exchange and instead resort to other venues that afford no similar disadvantages to those who engage in floor trades and are not held to the same execution standards that FBMS enforces today. Indeed, the Exchange observes that competing exchanges, like NYSE Amex, execute floor trades based upon the time when their floor brokers reach agreement on the trades in the trading crowd rather than the time when the trading system receives the trades; the Exchange further observes that at such competing exchanges, floor trades often execute at prices that differ from those that prevail when the exchanges report the trades to the consolidated tape.

The Exchange notes that the problem it is attempting to solve through this proposal did not exist prior to the advent of FBMS, when Floor Brokers stamped paper tickets with the times when they reached agreement on their trades in the trading crowd, entered the trade terms onto the tickets, and submitted the tickets to an Exchange Data Entry Technician, who in turn forwarded the trade information to the Trading System for execution as of the time of the date stamp on the ticket. Moreover, the Exchange notes that even in the original version of FBMS, Floor Brokers could self-stipulate the time when they executed a trade and thereby avoid the risk that the market would move before they finished entering the terms of that trade into FBMS and submitted it to the System.

*Overview of Snapshot.* To mitigate the unintended and unfair consequences of the current iteration of FBMS—while also preserving its benefits—the Exchange proposes to amend Rules 1000 and 1063 to permit the use of a new feature in FMBS called ''Snapshot.'' [4]

Snapshot will in many respects serve as an electronic equivalent—if not an enhanced version—of a paper ticket for Floor Brokers.[5] Specifically, Snapshot will enable Floor Brokers who engage in certain types of Floor trades to: (i) Provisionally execute [6] the trades in open outcry on the options Floor [7]; (ii) capture information about the state of the market that exists at the time when they provisionally execute such trades (*i.e.,* take a ''snapshot'' of the market); (iii) afford Floor Brokers a limited amount of additional time to submit their provisionally executed trades through FBMS to the Trading System; and (iv) provided that Floor Brokers enter the trade information into FBMS and submit it to the Trading System in a timely fashion, have the Trading System verify [8] their trades for compliance with trade-through and priority rules based upon the state of the market that existed at the time when the trades were provisionally executed and Snapshots were taken (rather than at the time when the Trading System received the trades). Provided that the trades are indeed compliant, then the Trading System will report them to the consolidated tape. (If the trades are deemed to have been non-compliant with trade-through or priority rules at the time when the Snapshots were taken, then they will be rejected.) The time and market captured by the Snapshot will be utilized for all purposes, including audit trail [9] and surveillance purposes.

The Exchange notes that Snapshot would not interact with the Exchange's electronic order book. As set forth in proposed Rule 1063(e)(v)(C)(3), if an order exists on the book that has priority at the time when a Floor Broker seeks to take a Snapshot, the System will not prevent the Floor Broker from taking the Snapshot, but he will need to clear the order on the book, re-announce and provisionally re-execute the trade, and take a new Snapshot before he submits the provisionally executed trade to the Trading System or else the Trading System will reject the provisionally executed trade and will not report that trade to the consolidated tape (as it would violate the priority rules of the Exchange).

The following is an example of how Snapshot would operate in practice and how it would impact a hypothetical trade. In this example, a Floor Broker receives a Customer order to buy 100 SPY Jan 250 Calls for $1.05. He enters the trading crowd, lawfully announces the order, and requests bids and offers from the trading crowd. A Market Maker in the trading crowd offers to sell 100 contracts at $1.04 while the National Best Bid or Offer is $1.03 bid and $1.05 offer (no Customer orders on the offer). At this point, the Floor Broker can agree to the trade of the 100 SPY Jan 250 calls at a price of $1.04, a price which is $0.01 better than the limit price of the Customer order.

Presently, and without the availability of Snapshot, if the market changes to $1.05 bid and $1.07 offer while the Floor Broker is updating his order in FBMS to reflect the provisional execution price of $1.04, then the Floor Broker will be unable to complete his purchase of 100 contracts at $1.04 on behalf of the Customer and the Customer may end up paying the new offer of $1.07 per contract. Moreover, if another round of negotiation occurs in the crowd due to the inability of the Floor Broker to execute the previously agreed-upon trade at the time of agreement, then the same scenario noted above may occur again, resulting in either an error for the Floor Broker or the Customer paying a price higher than $1.07.

With Snapshot, by contrast, the Floor Broker could click the Snapshot button in FBMS upon reaching an agreement

[4] The Exchange became capable of offering Snapshot upon upgrading FBMS to version 3.0 in November 2016. The Exchange works continually to enhance Exchange systems to improve trading on the Exchange and in the national market system. The history of the different versions of FBMS is described in great detail in a previous filing. *See* Securities Exchange Release No. 78593 (August 16, 2016) (SR–Phlx–2016–82).

[5] As described below, Snapshot would be superior to a paper ticket in that it would provide for systematic enforcement of trade-through and priority rules.

[6] As set forth in proposed Rule 1063(e)(v)(A)(1), provisional execution occurs when either: (i) The participants to a trade reach a verbal agreement in the trading crowd as to the terms of the trade or (ii) a Floor Broker crosses an order as set forth in Rule 1064(a). Execution is defined as ''provisional'' insofar as the trade may be deemed invalid and then rejected when the Trading System subsequently verifies it.

[7] The use of Snapshot (for multi-leg orders and simple orders on options in ETFs included in the Options Penny Pilot) would be an exception to the general rule set forth in Rule 1000(f)(iii) that Floor Brokers may not execute trades in open outcry on the options trading Floor.

[8] The Snapshot will contain all information necessary for the Trading System to determine that a provisionally executed trade is consistent with all applicable priority and trade-through rules based on the time the trade is provisionally executed on the Floor. Specifically, the Snapshot will include: (1) The away market best bid and best offer; (2) the Exchange best bid and best offer; (3) Customer orders at the top of the Exchange book; and (4) the best bid and offer of all-or-none orders. The System needs each of these data elements to complete important priority and trade-through checks. The Snapshot must capture information regarding Customer orders and all-or-none orders because those impact the determination of priority and trade through differently than other orders on the Exchange Book.

[9] Every time a Floor Broker takes a Snapshot, a record of the Snapshot will be created and retained for audit trail purposes regardless of whether the Floor Broker acts upon the Snapshot by submitting it to the Trading System. This record is in addition to that which the Exchange presently creates upon initiation of an order in FBMS. Moreover, when a Floor Broker submits a trade subject to Snapshot to the Trading System and the trade is thereafter reported to the consolidated tape, an additional execution record will be created and retained for audit trail purposes that will contain all of the same details as all other trade records. For example, the Snapshot and the execution record created at the time of reporting to the consolidated tape will contain the time when a Snapshot was taken, the time of reporting to the consolidated tape, and all relevant order and execution details (including the Exchange best bid and offer and away best bid and offer). Lastly, the Snapshot record will include Exchange all-or-none order details to provide a fulsome capture of the Exchange best bid and offer at the time of the Snapshot.

with a Market Maker in the crowd as to the terms of the trade, thereby effecting a provisional execution of the trade based upon the available market of a $1.03 bid and $1.05 offer. As discussed below, once the Floor Broker clicks the Snapshot button, he will have up to 15 seconds to enter into FBMS the final terms of his Customer's trade and then submit the trade to the Trading System. The Trading System will then verify that the trade complies with trade-through and priority rules based upon the market that existed, $1.03 bid and $1.05 offer, when the Snapshot was taken. Because in this example, the Trading System determines that the trade is valid, it will report the trade to the consolidated tape.

By affording the Floor Broker the extra time that he needs to enter and submit this provisionally executed trade without having to bear the interim risk of market conditions changing, Snapshot would help ensure that the Floor Broker is able to execute the Customer order and do so at a price that meets the Customer's expectations and needs while continuing to adhere to trade-through and priority rules. In a larger sense, Snapshot would also compensate for the inherent disparity that exists between electronic options trading (involving the instantaneous interactions of trading algorithms) and floor-based options trading (involving the slower interactions of human beings). Lastly, it would help ensure that the Exchange remains competitive with other floor trading venues, like NYSE Amex, that already permit trading to occur in a manner similar to Snapshot, as well as with venues, like the proposed BOX Options Exchange trading floor, that are vague about whether they would permit such trading practices.[10]

*Limitations on the Availability of Snapshot.* Although the Exchange believes that Snapshot will be a welcome and beneficial addition to its Floor trading operations, the Exchange nevertheless recognizes the prudence of imposing reasonable controls upon the use of Snapshot to ensure that Floor Brokers do not misuse or abuse the functionality. These controls, which are set forth in proposed Rule 1063(v)(A), are as follows.

First, a Floor Broker may not use the Snapshot feature for all of his options orders. Instead, a Floor Broker may trigger the Snapshot feature only for his or her use with a trade involving a Multi-leg Order (as defined in Rule 1066(f)) or a simple option order on an ETF that is included in the Options Penny Pilot. The reason for this limitation is to ensure that Floor Brokers use Snapshot only when the complexity of an order or the fast-moving nature of the market for certain options reasonably justifies the need for additional time to calculate or enter trade information or the ability to preserve market conditions that exist at the time of provisional execution. As discussed above, options involving Multi-leg Orders often involve time-consuming tasks prior to trade entry that justify use of Snapshot. Likewise, the market for options orders on ETFs included in the Options Penny Pilot is known to be especially fast-moving and volatile, which again justifies the use of Snapshot.

A second limitation that the Exchange proposes is that a Floor Broker may have only one Snapshot outstanding at any given time across all options classes and series. In other words, when a Floor Broker takes a Snapshot of a trade and while that Snapshot remains valid, the Floor Broker may not simultaneously take a Snapshot of another trade. The Exchange has built this limitation into FBMS such that FBMS will enforce it automatically. This limitation will directly contribute to preventing Floor Brokers from engaging in excessive use of and abuse of Snapshot.

The Exchange notes that it proposes to amend Floor Advice C–2 to render it a violation for a Floor Broker to trigger the Snapshot feature for the purpose of obtaining favorable priority or trade-through conditions or improperly avoiding unfavorable priority or trade-through conditions. Conduct that violates this Advice would include, for example, repeated instances in which Floor Brokers permit valid Snapshots to expire without submitting the trades subject to the Snapshots to the Trading System for verification and reporting to the consolidated tape. Surveillance Staff will monitor and enforce proper usage of the Snapshot feature on a post-trade basis.

*Limitations on the Validity of a Snapshot.* In addition to the above, the Exchange proposes, in Rule 1063(v)(B), to limit the time period during which a Snapshot will remain valid such that a trade may execute based upon it. Specifically, the Exchange proposes to make each Snapshot valid for only 15 seconds, meaning that a Floor Broker may submit a trade from FBMS to the Trading System based upon a Snapshot at any time within 15 seconds after the Floor Broker clicks the Snapshot button and activates the feature.

The Exchange decided to impose this limitation after it concluded that allowing Floor Brokers to rely upon a Snapshot for an extended period of time would unduly impair the validity of the consolidated tape. For example, the Exchange considered making a Snapshot valid for up to the full 90 seconds available to report trades to the consolidated tape. Although designating Snapshots as valid for up to 90 seconds would have provided Floor Brokers with ample time to enter and submit even their most complex trades, the Exchange concluded that the cost to market transparency of lengthy delays in executing and reporting trades would outweigh this benefit. At the other end of the spectrum, the Exchange also considered imposing a strict time limitation on the validity of a Snapshot (as short as five seconds), but it decided against doing so after concluding that such a limitation would eliminate the utility of the Snapshot feature in most of the scenarios in which it could be useful. Ultimately, the Exchange settled on a 15 second limitation for the validity of a Snapshot as a reasonable and prudent compromise between the needs of the Floor Brokers for additional time to completely reconcile and record the terms of their trades with the needs of market participants for fast, accurate, and transparent reporting of trades.

If a Snapshot expires before a Floor Broker completes his or her entry and submission of a trade, then FBMS will not permit the Floor Broker to rely upon the expired Snapshot to submit the trade to the Trading System. Instead, the Floor Broker has two options under the Exchange's proposal.

First, assuming that the Floor Broker re-confirms the acceptability of the terms of the trade with all participants, then the Floor Broker may finish entering the trade details into FBMS without Snapshot and submit it to the Trading System. The Trading System will then validate and (assuming validity) execute the trade in the normal course using the market conditions that prevail at the time when the Trading System receives the trade.

Alternatively, the Floor Broker may, after re-confirming the terms of the trade, take a new Snapshot of the market that records a new time of provisional execution. The Floor Broker would then have no more than 15 seconds within which to submit the re-confirmed trade and, upon timely submission, the Trading System would evaluate it based

[10] *See* Ltr. from J. Conley, SVP and Corporate Secretary, Nasdaq to B. Fields, Secretary, Securities and Exchange Commission, dated March 27, 2017, at 3–4 (commenting on the failure of the BOX Options Exchange, in its proposal to establish open outcry trading, to explain how it would address a shift in the market that occurs between the time when a trade is agreed upon in open outcry and when it is entered into the BOX electronic order entry system for verification and execution).

upon the prevailing market conditions reflected in the new Snapshot. Provided that the submitted trade adheres to the priority and trade-through restrictions based upon the prevailing market condition reflected in the new Snapshot, then the Trading System will report the trade to the consolidated tape. Note that if the Floor Broker records multiple Snapshots respecting the same order, the Trading System would automatically use the most recent Snapshot for verification purposes.

*Ability to Refresh a Snapshot Before it Expires.* Lastly, the proposal would permit a Floor Broker to replace a valid and existing Snapshot, prior to its expiration, with a new one by re-clicking the Snapshot button within 15 seconds of clicking it the first time. The Exchange proposes to include this functionality in Snapshot to allow a Floor Broker to address a scenario in which the market shifts between the time of provisional execution and the time when the Floor Broker takes a Snapshot, wherein the market captured in the Snapshot is such that it would not permit a trade to occur in accordance with the Exchange's rules. In this scenario, where the Trading System rejects or the Floor Broker reasonably anticipates that the Trading System will reject a provisional execution subject to a Snapshot, the proposal provides that the Floor Broker must re-announce the trade in the crowd before he refreshes the Snapshot.[11]

This functionality in Snapshot would also allow a Floor Broker to take a new Snapshot when he reasonably anticipates that he will be unable to input the final terms of the trade within the 15 second window. In this scenario, the proposal provides that the Floor Broker need only re-confirm the terms of the trade with the existing participants before he refreshes the Snapshot.

By way of example, a Floor Broker enters the trading crowd with a Customer Multi-leg Order to Buy 100 IBM Jan 100 calls for $1.05 and Sell 97 Jan 105 calls for $0.85. The market for the Jan 100 calls is $1.00 bid and $1.15 offer while the market for the Jan 105 calls is $0.70 bid and $1.00 offer. The trading crowd has no interest in participating in this trade. This is a lawful trade and when the Floor Broker announces the execution, he clicks the Snapshot button. When the Snapshot appears, it reflects a rapid change in the market for the Jan 100 calls to $1.10 bid and $1.15 offer. When the Floor Broker sees the Snapshot, he knows that it will be useless because the Trading System will reject the trade since his price of $1.05 is outside of the market. While the Snapshot remains valid, he sees the market for the Jan 100 calls change back to $1.00 bid and $1.15 offer. He re-announces the trade, receives no interest, and then clicks the Snapshot button again to record the change in the market and receives a new 15 second window in which to open the Complex Calculator, enter the terms of the trade into the Complex Calculator, and submit the trade to the Trading System for execution.

A second example where a Floor Broker may utilize the Snapshot feature and find it necessary to re-click the Snapshot could occur when the Floor Broker enters the trading crowd with a multi-Legged Customer Order to buy 819 contracts of Leg 1, sell 912 contracts of Leg 2, and buy 1011 contacts of Leg 3—all for a net price of $2.00. In the trading crowd, the Floor Broker receives interest from several Market Makers who provide $2.00 offers with a net offer size greater than his order size (providing an over subscription of size). Because the Floor Broker has sufficient interest to execute the trade at $2.00, he clicks Snapshot, but he then finds himself unable, before the Snapshot expires, to finalize the volumes that each Market Maker will agree to trade (given that each Market Maker desired to trade more contracts than the order size). Accordingly, the Floor Broker re-confirms the terms of the trade and then refreshes the Snapshot.

The Exchange does not believe that Floor Brokers have an incentive to abuse the Snapshot ''refresh'' functionality to take advantage of favorable market moves. Nevertheless, in an abundance of caution, the Exchange proposes to limit to three the number of Snapshots that Floor Brokers may take with respect to any single order, regardless of whether each such Snapshot persists for the full 15 seconds or for a shorter period.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5) of the Act[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

Snapshot promotes just and equitable principles of trade and serves the interests of investors and the public by increasing the likelihood that investors will be able to execute their orders and do so in line with their expectations and needs. Similarly, Snapshot mitigates the risk that the Trading System will unfairly reject a trade due to a change in market conditions that occurs between the time when the parties negotiate a lawful and valid trade on the Floor and the time when the Trading System receives it.

Snapshot also renders the Exchange Floor more competitive with off-floor electronic trading venues because it compensates for the inefficiencies and delays inherent in a floor trading system that depends upon the inputs and interactions of human beings; such inefficiencies and delays do not exist in fully-electronic trading environments, where computers and algorithms interact on a near instantaneous basis. Additionally, Snapshot will render the Floor more competitive with other floor-based trading venues at which the Exchange observes trade executions occurring seconds or even minutes after verifications occur, but on trading terms that existed as of the time of verification.

The Exchange believes that it is consistent with the Act to specifically exempt multi-leg orders and simple orders in options on Options Penny Pilot ETFs from the general rule set forth Rule 1000(f)(iii) that Floor Brokers may not execute orders in the options trading crowd. As noted previously, the complex calculations that are often involved in multi-leg orders and the fast-moving nature of the markets for options on Penny Pilot ETFs render these two categories of options particularly appropriate for exceptional treatment using Snapshot. Enabling Floor Brokers to provisionally execute these two categories of options on the Options Floor (using Snapshot), rather than execute them in the Trading System, will not adversely impact investors or the quality of the market due to the controls that the Exchange proposes on the circumstances in which Floor Brokers may use Snapshot and on the manner in which they may use it. In fact, the proposal will protect investors and the public interest by improving Floor Brokers' ability to execute multi-leg orders and simple options on Penny Options Pilot ETFs while continuing to ensure that all priority and trade through rules are systematically enforced.

[11] An example of this would occur if the System rejects or the Floor Broker realizes that the System will reject his or her Snapshot because an order exists on the Exchange's limit order book that has priority.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

Moreover, this proposal is consistent with Rule 611 of Regulation NMS,[14] which requires the Exchange to establish policies and procedures that are reasonably designed to prevent trade-throughs of protected quotations. Presently, the Exchange verifies that a proposed trade complies with the trade-through rule as of the time when the Trading System receives the trade from FBMS; if the trade complies, then the Trading System executes the trade and reports it to the consolidated tape. However, the proposal would serve as an exception to this practice. It would permit Floor Brokers, upon reaching a meeting of the minds in the trading crowd regarding the terms of a trade, to take a Snapshot that provisionally executes the trade on the Floor. When the Floor Broker submits the trade to the Trading System using Snapshot, the Trading System will verify that the provisionally executed trade complied with the trade-through rule as of the time of its execution—*i.e.,* the time when the crowd agreed to the terms of the trade and Snapshot was taken—rather than at the time when the Trading System receives the trade. If the Trading System determines that the provisionally executed trade complied with the trade-through rule, then it will report the trade to the consolidated tape. If, however, the Trading System determines that the provisionally executed trade was non-compliant with the trade-through rule as of the time when the Snapshot was taken, then it will reject the trade. In other words, even though the proposal will change the time of execution of a trade for purposes of verifying compliance with the trade-through rule, the automated compliance verification process will otherwise be unchanged and will still apply to systematically prevent trade-throughs for all trades, including those utilizing Snapshot.[15]

Finally, the Exchange's proposal accomplishes the above in a manner that: (1) Continues to provide automated and verifiable enforcement of applicable trade-through and priority rules; (2) is documented in writing and transparent, in contrast to the practices of other exchanges; (3) provides for trade reporting to occur in a timely fashion, even for the most complex trades, and within a 15 second time frame that is far less than the maximum 90 second reporting period allowable; and (4) imposes surveillance and responsible limitations upon Snapshot that ensure appropriate usage and prevents violations and abuse.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In fact, the proposal is pro-competitive for several reasons. The Exchange believes that the Snapshot feature will result in the Exchange's Floor operating more efficiently, which will help it compete with other floor-based exchanges.

Moreover, the proposal helps the Exchange compete by ensuring the robustness of its regulatory program, ensuring Floor Brokers' compliance with that program, and by enhancing Customer protections through further utilization of electronic tools by members. The Exchange considers all of these things to be differentiators in attracting participants and order flow.

Lastly, the proposal does not impose a burden on intra-market competition not necessary or appropriate in furtherance of the purposes of the Act. Although the benefits of Snapshot will apply initially only to Floor Brokers, the Exchange plans to extend its availability to Registered Options Traders and Specialists once it receives authority to allow them to utilize FBMS.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (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–Phlx–2017–34 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–34. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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–Phlx–2017–34 and should be submitted on or before August 22, 2017.

[14] 12 CFR 242.611.

[15] The Exchange notes that the SEC has published analogous guidance indicating that a broker-dealer that individually negotiates the terms of a block trade among multiple parties would have policies and procedures reasonably designed to prevent a trade-through even where the individually negotiated price is not at or within the best protected quotations at the time when the transaction terms are entered into the broker-dealer's automated system if the broker-dealer takes steps to verify that the transaction price of the trade was at or within the best protected quotations at some point during a 20 second period up to and including the time when the transaction terms are entered into the broker-dealer's order entry system. *See* SEC, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 or Regulation NMS, Question 3.23: Agency Block Transactions with Non-Trade-Through Prices that are Individually Negotiated, at *https://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–16210 Filed 7–31–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–81211; File No. SR–FICC–2017–010]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Withdrawal of a Proposed Rule Change To Amend the Mortgage-Backed Securities Division Rules Concerning Use of Clearing Fund for Losses, Liabilities or Temporary Needs for Funds Incident to the Clearance and Settlement Business and Make Other Related Changes

July 26, 2017.

On April 11, 2017, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–FICC–2017–010 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] According to FICC, FICC proposed to amend FICC's Mortgage-Backed Securities Division (''MBSD'') Clearing Rule 4, Section 5 to (i) delete language that would potentially limit FICC's access to MBSD clearing fund cash and collateral to address losses, liabilities, or temporary needs for funds incident to its clearance and settlement business and (ii) make additional changes to correct grammar errors, delete superfluous words and otherwise align the text of MBSD Rule 4, Section 5 to the text of FICC's Government Securities Division (''GSD'') Rulebook Rule 4, Section 5. The proposed rule change was published for comment in the **Federal Register** on April 28, 2017.[3] On June 7, 2017, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission did not receive any comments on the proposed rule change.

On June 21, 2017, FICC filed a withdrawal of its proposed rule change (SR–FICC–2017–010) from consideration by the Commission. The Commission is hereby publishing notice of the withdrawal.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–16107 Filed 7–31–17; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80517 (April 24, 2017), 82 FR 19771 (April 28, 2017) (SR–FICC–2017–010) (''Notice'').

[4] 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[5] Securities Exchange Act Release No. 80879 (June 7, 2017), 82 FR 27090 (June 13, 2017) (SR–FICC–2017–010).

[6] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–81212; File No. SR–ISE–2017–75]**

## Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date in Rule 723(b)

July 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 18, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the implementation date set forth in Rule 723(b) from July 15, 2017 to August 15, 2017 for the systems-based requirement to provide price improvement through the Price Improvement Mechanism for Agency Orders under 50 contracts where the difference between the NBBO is $0.01.[3]

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to extend the implementation date set forth in Rule 723(b) from July 15, 2017 to August 15, 2017 for the systems-based requirement to provide price improvement through the Price Improvement Mechanism (''PIM'') for Agency Orders under 50 contracts where the difference between the NBBO is $0.01.

Rule 723 sets forth the requirements for the PIM, which was adopted in 2004 as a price-improvement mechanism on the Exchange.[4] Certain aspects of PIM were adopted on a pilot basis (''Pilot''); specifically, the termination of the exposure period by unrelated orders, and no minimum size requirement of orders eligible for PIM. The Pilot expired on January 18, 2017.

On December 12, 2016, the Exchange filed with the Commission a proposed rule change to make the Pilot permanent, and also to change the requirements for providing price improvement for Agency Orders of less than 50 option contracts (other than auctions involving Complex Orders) where the National Best Bid and Offer (''NBBO'') is only $0.01 wide.[5] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that this proposed rule change is effective and operative as of July 18, 2017, the date of its filing. *See* text accompanying *infra* note 17 (granting waiver of the 30-day operative delay).

[4] *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (SR–ISE–2003–06).

[5] *See* Securities Exchange Act Release No. 79530 (December 12, 2016), 81 FR 91221 (December 16, 2017) (SR–ISE–2016–29). The Exchange notes that, on April 3, 2017, International Securities Exchange, LLC was re-named Nasdaq ISE, LLC to reflect its new placement within the Nasdaq, Inc. corporate structure in connection with the March 9, 2016 acquisition by Nasdaq of the capital stock of U.S.

Commission approved this proposal on January 18, 2017.[6]

In modifying the requirements for price improvement for Agency Orders of less than 50 contracts, ISE proposed to amend Rule 723(b) to require Electronic Access Members to provide at least $0.01 price improvement for an Agency Order if that order is for less than 50 contracts and if the difference between the NBBO is $0.01.

ISE adopted a member conduct standard to implement this requirement during the time pursuant to which ISE symbols were migrating from the ISE platform to the Nasdaq INET platform. At the time it proposed the member conduct standard, ISE anticipated that the migration to the Nasdaq platform would be complete on or before July 15, 2017. Accordingly, Rule 723(b) stated that, for the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than July 15, 2017, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, an Electronic Access Member shall not enter a Crossing Transaction unless such Crossing Transaction is entered at a price that is one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, and better than any limit order on the limit order book on the same side of the market as the Agency Order. This requirement will apply regardless of whether the Agency Order is for the account of a public customer, or where the Agency Order is for the account of a broker dealer or any other person or entity that is not a Public Customer.

To enforce this requirement, ISE also amended Rule 1614 (Imposition of Fines for Minor Rule Violations). Specifically, ISE added Rule 1614(d)(4), which provides that any Member who enters an order into PIM for less than 50 contracts, while the National Best Bid or Offer spread is $0.01, must provide price improvement of at least one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, which increment may not be smaller than $0.01. Failure to provide such price improvement will result in members being subject to the following fines: $500 for the second offense, $1,000 for the third offense, and $2,500 for the fourth offense. Subsequent offenses will subject the member to formal disciplinary action. The Exchange will review violations on a monthly cycle to assess these violations. This provision is in effect for the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than until September 15, 2017.[7]

In adopting a member conduct standard, the Exchange represented that it would conduct electronic surveillance of PIM to ensure that members comply with the proposed price improvement requirements for option orders of less than 50 contracts. Specifically, using an electronic surveillance system that produces alerts of potentially unlawful PIM orders, the Exchange will perform a frequent review of member firm activity to identify instances of apparent violations. Upon discovery of an apparent violation, the Exchange will attempt to contact the appropriate member firm to communicate the specifics of the apparent violation with the intent to assist the member firm in preventing submission of subsequent problematic orders. The Exchange will review the alerts monthly and determine the applicability of the MRVP and appropriate penalty. The Exchange is not limited to the application of the MRVP, and may at its discretion, choose to escalate a matter for processing through the Exchange's disciplinary program.[8]

In adopting the price improvement requirement for Agency Orders of less than 50 contracts, the Exchange also proposed to amend Rule 723(b) to adopt a systems-based mechanism to implement this requirement, which shall be effective following the migration of a symbol to the Nasdaq INET platform. Under this provision, if the Agency Order is for less than 50 option contracts, and if the difference between the National Best Bid and National Best Offer (''NBBO'') is $0.01, the Crossing Transaction must be entered at one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order and better than the limit order or quote on the ISE order book on the same side of the Agency Order.

Subsequent to the approval of the rule change adopting the price improvement requirement and the member conduct standard, the Exchange determined that the migration of symbols to the Nasdaq INET platform would be complete on or before July 31, 2017.[9] This new migration schedule was developed to enable the Exchange to conduct additional systems testing prior to symbol migration. Given the updated migration schedule, the Exchange proposes to extend the effective period of the member conduct standard accordingly. The Exchange therefore proposes that the member conduct standard will be in effect until a date specific by the Exchange in a Regulatory Circular, which shall be no later than August 15, 2017.[10]

The Exchange notes that the migration of ISE symbols commenced on June 12, 2017, and that symbols that have already migrated to the Nasdaq INET platform are already subject to the systems-based mechanism. As such, this extension will affect only those symbols that have not yet migrated to the Nasdaq INET platform.

Once all symbols have migrated to the Nasdaq INET platform and the member conduct rule is no longer necessary, the Exchange will file a proposed rule change deleting the relevant portion of Rule 723(b).

Exchange Holdings, and the indirect acquisition all of the interests of the International Securities Exchange, LLC, ISE Gemini, LLC and ISE Mercury, LLC. *See* Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017) (SR–ISE–2017–25). ISE Gemini, LLC and ISE Mercury, LLC were also renamed Nasdaq GEMX, LLC and Nasdaq MRX, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017) (SR–ISEMercury–2017–05).

[6] *See* Securities Exchange Act Release No. 79829 (January 18, 2017), 82 FR 8469 (January 25, 2017) (SR–ISE–2016–29).

[7] While ISE anticipated that the migration of ISE symbols to the Nasdaq INET platform would be complete by July 15, 2017, and its member conduct standard could be eliminated accordingly by that time, ISE Mercury, LLC (now Nasdaq MRX, LLC) also filed a rule change that adopted a similar member conduct standard for its price improvement rule, and that referenced proposed ISE Rule 1614(d)(4) as the means for enforcing its member conduct standard. *See* Securities Exchange Act Release No. 79841 (January 18, 2017), 82 FR 8452 (January 25, 2017) (order approving SR–ISEMercury–2016–25). The Nasdaq MRX re-platforming is scheduled to occur after the ISE re-platforming is complete. Accordingly, ISE proposed that the date for eliminating Rule 1614(d)(4) shall be specified by the Exchange in a Regulatory Information Circular, which date shall be no later than until September 15, 2017. Given that the Nasdaq MRX re-platforming is scheduled to occur after the ISE re-platforming is complete, and that the Nasdaq MRX member conduct references the Exchange's Rule 1614(d)(4), the date for eliminating Rule 1614(d)(4) remains unchanged by this proposal.

[8] *See* Securities Exchange Act Release No. 79530 (December 12, 2016), 81 FR 91221 (December 16, 2017) (SR–ISE–2016–29).

[9] *See* Data Technical News #2017–14 (May 25, 2017).

[10] While the Exchange anticipates that the re-platforming will be complete by July 31, 2017, it proposes to extend the implementation date of the systems-based requirement to August 15, 2017 in the unlikely event of a roll-back of one or multiple symbols to the current ISE platform.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The member conduct standard and its proposed duration were approved by the Commission and were adopted to reflect the migration of ISE symbols to the Nasdaq INET platform and its accompanying timetable. The symbol migration, which was initially anticipated to be complete by July 15, 2017, is now scheduled to be complete by July 31, 2017 to enable additional systems testing. The Exchange is therefore extending the duration of the member conduct standard accordingly, to August 15, 2017. As noted above, symbols that have already migrated to the Nasdaq INET platform are subject to the systems-based requirement. For the symbols that remain subject to the member conduct standard, the Exchange continues to surveil members, as described above, to ensure compliance with the requirements of the Rule. The substantive requirements of the price improvement requirement are the same under the member-conduct standard and the systems-based functionality; the only difference between the member-conduct standard and the systems-based functionality is the manner in which the price improvement requirement is implemented.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed extension of the member conduct standard reflects the revised timetable for migrating symbols to the Nasdaq INET platform. In extending the duration of the member conduct standard to August 15, 2017, the proposed change will apply equally to all members that trade in symbols that have not yet migrated to the Nasdaq INET platform. Moreover, the substantive requirements of the price improvement requirement are the same under the member-conduct standard and the systems-based functionality; the only difference between the member-conduct standard and the systems-based functionality is the manner in which the price improvement requirement is implemented.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange believes that waiving the operative delay as of the date of filing will facilitate an orderly continued migration of symbols to the Nasdaq INET system and the corresponding implementation of the systems-based requirement for ensuring price improvement for Agency Orders of less than 50 contracts where the difference between the NBBO is $0.01. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–75 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–75. 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 filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–ISE–2017–75, and should be submitted on or before August 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–16108 Filed 7–31–17; 8:45 am]

**BILLING CODE 8011–01–P**

[18] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #15218 and #15219; Oklahoma Disaster #OK–00116]**

### Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oklahoma

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–4324–DR), dated 07/25/2017.

*Incident:* Severe Storms, Tornadoes, Straight-Line Winds, and Flooding.

*Incident Period:* 05/16/2017 through 05/20/2017.

**DATES:** Issued on 07/25/2017.

*Physical Loan Application Deadline Date:* 09/25/2017.

*Economic Injury (Eidl) Loan Application Deadline Date:* 04/25/2018.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 07/25/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Alfalfa, Beckham, Cherokee, Coal, Cotton, Delaware, Johnston, Le Flore, Murray, Muskogee, Okfuskee, Okmulgee, Pittsburg, Pontotoc, Roger Mills, Washita

*The Interest Rates are:*

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations with Credit Available Elsewhere | 2.500 |
| Non-Profit Organizations without Credit Available Elsewhere | 2.500 |
| *For Economic Injury:* | |
| Non-Profit Organizations without Credit Available Elsewhere | 2.500 |

The number assigned to this disaster for physical damage is 15218B and for economic injury is 15219B.

(Catalog of Federal Domestic Assistance Number 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2017–16130 Filed 7–31–17; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on Proposed Highway in California

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans. The actions relate to a proposed highway project, Interstate 10 (I–10) from the Los Angeles and San Bernardino county line to Ford Street in Redlands in the Counties of Los Angeles and San Bernardino, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 29, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For Caltrans: Aaron Burton, Senior Environmental Planner, Environmental Special Projects, California Department of Transportation District 8, 464 West Fourth Street, 6th floor, MS 760, San Bernardino, CA 92401 during regular office hours from 8:00 a.m. to 5:00 p.m., Telephone number: (909) 383–2841, email: *aaron.burton@dot.ca.gov.*

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, and FHWA have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: I–10 Corridor Project. The I–10 Corridor Project proposes to construct one to two Express Lanes in each direction and associated improvements along a 33-mile segment of the I–10 freeway from the Los Angeles and San Bernardino county line (post mile 44.9/48.3) to Ford Street in Redlands (post mile 0.0/R37.0).

The project is intended to reduce traffic congestion, increase throughput, enhance trip reliability and accommodate long-term congestion management of the I–10 corridor. The project will be constructed in two contracts utilizing the design-build process. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on May 15, 2017, in the FHWA Record of Decision (ROD) issued on July 6, 2017 and in other documents in the Caltrans' project records. The FEIS, ROD, and other project records are available by contacting Caltrans at the address provided above. The Caltrans FEIS and ROD can be viewed and downloaded from the project Web site at *http://gosbcta.com/plans-projects/projects-freeway-I-10Corridor.html.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Section 4(f) of the US Department of Transportation Act of 1966 [49 U.S.C. 303].

4. Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469 469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. Clean Water Act 33 U.S.C. 1251–1387.

7. Farmland Protection Policy Act [7 U.S.C. 4201–4209 and its regulations].

8. E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(*l*)(1).

**Shawn E. Oliver,**

*Team Leader, Environmental and Right-of-Way, Federal Highway Administration, Sacramento, California.*

[FR Doc. 2017–16143 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–RY–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on Proposed SR–109 (Portland Bypass) Project in Tennessee

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

**SUMMARY:** This notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, State Route (SR) 109 (Portland Bypass) from SR–109 near SR–76 to SR–109 North of Downtown Portland in Sumner County, Tennessee. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 29, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For FHWA: Ms. Theresa Claxton; Planning and Program Management Team Leader; Federal Highway Administration; Tennessee Division Office; 404 BNA Drive, Building 200, Suite 508; Nashville, Tennessee 37217; Telephone (615) 781–5770; email: *Theresa.Claxton@dot.gov*. FHWA Tennessee Division Office's normal business hours are 7:30 a.m. to 4 p.m. (Central Time). You may also contact Ms. Susannah Kniazewycz, Environmental Division Director, Tennessee Department of Transportation (TDOT), James K. Polk Building, Suite 900, 505 Deaderick Street, Nashville, Tennessee 37243–0334; Telephone (615) 741–3655, *Susannah.Kniazewycz@tn.gov.* The TDOT Environmental Division's normal business hours are 8 a.m. to 5 p.m. (Central Time).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Tennessee: SR–109 (Portland Bypass), Project Number NH–109(27), PIN 106634.01, Sumner County, Tennessee. The proposed action will improve local, regional, and statewide mobility by improving traffic flow on the SR–109 corridor through Portland. The Selected Alternative proposes the construction of four 12-foot traffic lanes, 12-foot outside shoulders (10-foot paved, 2-foot gravel), and a 48-foot depressed grass median, which includes 6-foot inside shoulders (4-foot paved, 2-foot gravel), within an approximate 250-foot right-of-way (ROW). The design speed of the roadway is 60 miles per hour (mph), with the posted speeds potentially being lower. Portions of the corridor include: (1) A flyover ramp at the southern terminus of the project to provide unimpeded access for southbound traffic on the existing SR–109 merging with the Portland Bypass traffic before continuing south on existing SR–109; (2) A grade separated, partial folded diamond interchange at SR–52; (3) Access via at-grade intersections for several local roads intersected by the proposed Portland Bypass route, including: SR–76, Jackson Road, Collins Road (west of bypass), College Street, T.G.T. Road (west of bypass), and Kenwood Drive (west of bypass); (4) At–Grade Access Points with New Connector Roads at Kirby Drive and Woods Road; (5) A section of SR–52 will be widened to five lanes from near West Market Street westward to west of the proposed SR–52/Portland Bypass interchange. This widening is needed to accommodate an increase in traffic expected on that section of SR–52 once the Portland Bypass is constructed.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on September 14, 2015, in the FHWA Finding of No Significant Impact (FONSI) issued on July 3, 2017, and in other documents in the FHWA project records. The EA, FONSI, and other project records are available by contacting the FHWA or TDOT at the addresses provided above. The FHWA EA and FONSI can be viewed and downloaded from the project Web site at *http://www.tn.gov/tdot/topic/sr-109-portland-bypass,* or viewed at the TDOT—Environmental Division, James K. Polk Building, Suite 900, 505 Deaderick Street, Nashville, Tennessee 37243–0334, the TDOT Region 3 Project Development Office, 6601 Centennial Boulevard, Nashville, Tennessee, 37243, or the Portland Public Library, 301 Portland Boulevard, Portland, Tennessee, 37148.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–

2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, and Section 319) [33 U.S.C. 1251–1377].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 13112 Invasive Species; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(*l*)(1).

Issued on: July 25, 2017.

**Pamela M. Kordenbrock,**

*Division Administrator, Nashville, Tennessee.*

[FR Doc. 2017–16142 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–RY–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Agency Action on Proposed Interstate 73 in South Carolina

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of limitation on claims for judicial review of actions by U.S. Army Corps of Engineers (USACE).

**SUMMARY:** This notice announces actions taken by the USACE that are final. The actions taken relates to the Interstate 73 project, from the North Carolina border to S.C. Route 22, in Marlboro, Dillon, Marion, and Horry Counties, South Carolina. Those actions grant the Clean Water Act (CWA), Section 404 permit for the project.

**DATES:** By this notice, the FHWA is advising the public of a final agency action subject to 23 U.S.C. 139(l)(1). A claim seeking review of the Federal agency action on the highway project will be barred unless the claim is filed on or before December 29, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For FHWA: Emily O. Lawton, Division Administrator, Federal Highway Administration, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1270, Columbia, South Carolina 29201, Telephone: (803) 765–5411, Email: *Emily.lawton@dot.gov.* The FHWA South Carolina Division's Office normal business hours are 8:00 a.m. to 4:30 p.m. For USACE: Travis G. Hughes, Chief, Regulatory Division, U.S. Army Corps of Engineers, Charleston District, 69–A Hagood Avenue, Charleston, South Carolina 29403, Telephone: (843) 329–8044, Email: *Travis.G.Hughes@usace.army.mil.* The USACE Charleston District's Office normal business hours are 8:00 a.m. to 4:30 p.m. For South Carolina Department of Transportation (SCDOT): Chad C. Long, Director of Environmental Services, South Carolina Department of Transportation, 955 Park Street, Columbia, South Carolina 29201, Telephone: (803) 737–2314, Email: *Longcc@scdot.org.* The SCDOT's normal business hours are 8:00 a.m. to 4:30 p.m.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the USACE has taken final agency action subject to 23 U.S.C. 139(l)(1) by issuing permits for the following highway project in the State of South Carolina: The Interstate 73 Project involves construction of a new alignment interstate corridor from I–73/I–74 in Richmond County, NC, extending through Marlboro, Dillon and Marion, and Horry counties, SC before terminating at S.C. Route 22 in Horry County, SC. Due to the length of the project being approximately 80 miles, it was logically divided into two sections: I–73 North, which traverses from I–73/74 near Hamlet, NC to I–95 near Dillon, SC; and I–73 South, which traverses from I–95 near Dillon, SC to S.C. Route 22 near Conway, SC. The actions by the FHWA, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the I–73 South project, approved on November 29, 2007, in the FHWA Record of Decision (ROD) issued on February 8, 2008, and in other documents in the FHWA project records. Subsequent re-evaluations were conducted and approved on May 7, 2010 and May 10, 2017 for I–73 South. The FEIS for I–73 North was approved on August 6, 2008, and a ROD was issued on October 22, 2008. A subsequent re-evaluation was conducted and approved on May 10, 2017. The FHWA Draft EISs, FEISs, RODs, technical memoranda and re-evaluations can be viewed and downloaded from the project Web site at *www.i73insc.com.* These documents are also available by contacting the FHWA or SCDOT at the addresses provided above.

Notice is hereby given that, subsequent to the earlier FHWA actions, the USACE has taken a final agency action subject to 23 U.S.C. 139(l)(1) by issuing a ROD and a CWA Section 404 permit for the I–73 project in South Carolina. The USACE decision and permit (USACE Permit No. SAC–2008–01333) are available by contacting USACE at the address provided above, and can be viewed and downloaded from *http://www.sac.usace.army.mil/Missions/Regulatory/Projects-of-Interest/.*

This notice applies to the USACE actions described above as of the issuance date of this notice in the **Federal Register**. The laws under which actions were taken include, but are not limited to:

1. *General:* National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4351; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Wetlands and Water Resources:* Section 404 of the Clean Water Act, 33 U.S.C. 1344.

**Authority:** 23 U.S.C. 139(l)(1), as amended by the Fixing America's Surface Transportation Act (FAST Act), Pub. L. 114–94.

Issued on: July 25, 2017.

*Division Administrator, Columbia, South Carolina.*

[FR Doc. 2017–16140 Filed 7–31–17; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### Proposed Collection; Comment Request; Renewal Without Change of the FinCEN Form 8300

**AGENCY:** Financial Crimes Enforcement Network (''FinCEN''), U.S. Department of the Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** FinCEN, a bureau of the U.S. Department of the Treasury, invites all interested parties to comment on its proposed renewal without change to the collection of information through Form 8300, Report of Cash Payments Over $10,000 Received in a Trade or Business. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments should be received on or before October 2, 2017 to be assured of consideration.

**ADDRESSES:** Comments may be submitted by any of the following methods:

• *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2017–0009 and OMB control number 1506–0018.

• *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2017–0009 and OMB control number 1506–0018.

Please submit comments by one method only. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at 800–767–2825 or electronically at *frc@fincen.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of Cash Payments Over $10,000 Received in a Trade or Business.

*Office of Management and Budget (''OMB'') Number:* 1506–0018.

*Form Number:* 8300.

*Abstract:* The statute generally referred to as the ''Bank Secrecy Act,'' Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury (''Secretary''), among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Chapter X.

The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

Section 365 of the USA PATRIOT Act of 2001 (Pub. L. 107–56), adding section 5331 to Title 31 of the United States Code, authorized FinCEN to collect the information reported on Form 8300. The information collected on Form 8300 is required to be provided pursuant to 31 U.S.C. 5331, as implemented by FinCEN regulations found at 31 CFR 1010.330 and 1010.331.

The regulations require any person in a trade or business who, in the course of the trade or business, receives more than $10,000 in cash or foreign currency in one or more related transactions to report it to FinCEN and provide a statement to the person. The information collected under this requirement is made available to appropriate agencies and organizations as disclosed in FinCEN's Privacy Act System of Records Notice relating to BSA Reports.[2]

*Current Action:* A renewal without change to the current Form 8300. The report is accessible on the FinCEN Web site at: *http://www.fincen.gov/forms/files/fin8300_cashover10k.pdf*

*Type of Review:* Renewal without change of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations, farms, and the Federal government.

*Frequency:* As required.

*Estimated Number of Respondents:* 46,800.

*Estimated Time per Respondent:* 45 minutes.

*Estimated Total Annual Burden Hours:* 35,100.[3]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. In accordance with 31 CFR 1010.330(e)(3), a person required to make a report under this section must keep a copy of each report filed for five years from the date of filing.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

**Jamal El Hindi,**

*Deputy Director, Financial Crimes Enforcement Network.*

[FR Doc. 2017–16175 Filed 7–31–17; 8:45 am]

**BILLING CODE 4810–02–P**

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56.

[2] Treasury Department bureaus, such as FinCEN, renew their System of Records Notices every three years, unless there is cause to amend them more frequently. FinCEN's System of Records Notice for the BSA Report System was most recently published at 79 FR 20969, April 14, 2014.

[3] The burden for the information collection in 31 CFR 1010.330, and 1010.331, (also approved under control number 1506–0018), is reflected in the burden of the form and includes reporting and recordkeeping.

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Sanctions Actions Pursuant to Executive Order of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela''

**AGENCY:** Office of Foreign Assets Control, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property are blocked pursuant to the Executive Order of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela.''

**DATES:** OFAC's actions described in this notice were effective on July 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410 (not toll free numbers).

**SUPPLEMENTARY INFORMATION:**

#### Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's Web site at *http://www.treasury.gov/ofac.*

#### Notice of OFAC Actions

On July 26, 2017, OFAC's Director determined that the property and

interests in property of the following persons are blocked pursuant to Executive Order 13692 of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela'' (E.O. 13692). The OFAC Director designated each of these persons under section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

1. ALBISINNI SERRANO, Rocco, Miranda; Guarico, Venezuela; DOB 06 Mar 1982; Gender Male; Cedula No. 15481927 (Venezuela); President of Venezuela's National Center for Foreign Commerce (CENCOEX); Former Vice Minister of the State and Socialist Economy of Venezuela's Ministry of Economy and Finance; Current or Former Principal Director of Venezuela's National Development Fund (FONDEN) (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

2. FLEMING CABRERA, Alejandro Antonio, Caracas, Capital District, Venezuela; DOB 03 Oct 1973; Gender Male; Cedula No. 11953485 (Venezuela); Vice Minister for Europe of Venezuela's Ministry of Foreign Affairs; Former Vice Minister for North America of Venezuela's Ministry of Foreign Affairs; Former President of Venezuela's National Center for Foreign Commerce (CENCOEX); Former President for Suministros Venezolanos Industriales, C.A. (SUVINCA) of Venezuela's Ministry of Commerce; Former Ambassador of Venezuela to Luxembourg and Chief Ambassador of the Venezuelan Mission to the European Union (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

3. GARCIA DUQUE, Franklin Horacio (Latin: GARCÍA DUQUE, Franklin Horacio), Miranda, Venezuela; DOB 19 Aug 1963; citizen Venezuela; Gender Male; Cedula No. 9125430 (Venezuela); Former National Director of Venezuela's Bolivarian National Police; Former Commander of the West Integral Strategic Defense Region of Venezuela's National Armed Forces (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

4. JAUA MILANO, Elias Jose (Latin: JAUA MILANO, Elías José), Miranda, Venezuela; DOB 16 Dec 1969; POB Caucagua, Miranda, Venezuela; citizen Venezuela; Gender Male; Cedula No. 10096662 (Venezuela); Head of Venezuela's Presidential Commission for the Constituent Assembly; Venezuela's Minister of Education; Venezuela's Sectoral Vice President of Social Development and the Revolution of Missions; Former Executive Vice President of Venezuela (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

5. LUCENA RAMIREZ, Tibisay (Latin: LUCENA RAMÍREZ, Tibisay), El Recreo, Libertador, Capital District, Venezuela; DOB 26 Apr 1959; POB Barquisimeto, Lara, Venezuela; citizen Venezuela; Gender Female; Cedula No. 5224732 (Venezuela); Passport 3802006 (Venezuela); President of Venezuela's National Electoral Council; President of Venezuela's National Board of Elections (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

6. MALPICA FLORES, Carlos Erik, Naguanagua, Carabobo, Venezuela; DOB 17 Sep 1972; Gender Male; Cedula No. 11810943; Former National Treasurer of Venezuela; Former Vice President of Finance for Petroleos de Venezuela, S.A. (PDVSA); Former Presidential Commissioner for Economic and Financial Affairs (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

7. PEREZ AMPUEDA, Carlos Alfredo (Latin: PÉREZ AMPUEDA, Carlos Alfredo), Caracas, Capital District, Venezuela; DOB 13 Dec 1966; citizen Venezuela; Gender Male; Cedula No. 9871452 (Venezuela); National Director of Venezuela's Bolivarian National Police; Former Commander of Carabobo Zone for Venezuela's Bolivarian National Guard (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

8. REVEROL TORRES, Nestor Luis (Latin: REVEROL TORRES, Néstor Luis), Zulia, Venezuela; El Valle, Libertador, Caracas, Capital District, Venezuela; DOB 28 Oct 1964; citizen Venezuela; Gender Male; Cedula No. 7844507 (Venezuela); Passport A0186449 (Venezuela); Venezuela's Minister of Interior, Justice, and Peace; Former Commander General of Venezuela's Bolivarian National Guard; Former Director of Venezuela's Anti-Narcotics Agency (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

9. RIVERO MARCANO, Sergio Jose (Latin: RIVERO MARCANO, Sergio José), Caracas, Captial District, Venezuela; DOB 08 Nov 1964; citizen Venezuela; Gender Male; Cedula No. 6893454 (Venezuela); Commander General of Venezuela's Bolivarian National Guard; Former Commander of the East Integral Strategic Defense Region of Venezuela's National Armed Forces (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

10. SAAB HALABI, Tarek William, Anzoategui, Venezuela; DOB 10 Sep 1962; citizen Venezuela; Gender Male; Cedula No. 8459301 (Venezuela); Passport 5532000 (Venezuela); Venezuela's Ombudsman; President of Venezuela's Republican Moral Council (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

11. SUAREZ CHOURIO, Jesus Rafael (Latin: SUÁREZ CHOURIO, Jesús Rafael), Aragua, Venezuela; Caracas, Venezuela; DOB 19 Jul 1962; citizen Venezuela; Gender Male; Cedula No. 9195336 (Venezuela); General Commander of Venezuela's Bolivarian Army; Former Commander of Venezuela's Central Integral Strategic Defense Region of Venezuela's National Armed Forces; Former Commander of Venezuela's Aragua Integrated Defense Zone of Venezuela's National Armed Forces; Former Leader of the Venezuelan President's Protection and Security Unit (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

12. VARELA RANGEL, Maria Iris (Latin: VARELA RANGEL, María Iris), Caracas, Capital District, Venezuela; DOB 09 Mar 1967; POB San Cristobal, Tachira, Venezuela; citizen Venezuela; Gender Female; Cedula No. 9242760 (Venezuela); Passport 8882000 (Venezuela); Member of Venezuela's Presidential Commission for the Constituent Assembly; Venezuela's Former Minister of the Penitentiary Service (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

13. ZERPA DELGADO, Simon Alejandro (Latin: ZERPA DELGADO, Simón Alejandro), Sucre, Miranda, Venezuela; DOB 28 Aug 1983; Gender Male; Cedula No. 16544324 (Venezuela); Vice President of Finance for Petroleos de Venezuela, S.A. (PDVSA); President

of Venezuela's Economic and Social Development Bank (BANDES); President of Venezuela's National Development Fund (FONDEN); Vice Minister of Investment for Development of Venezuela's Ministry of Economy and Finance; Principal Director of Venezuela's Foreign Trade Bank (BANCOEX); Principal Director of Venezuela's National Telephone Company (CANTV); Current or Former Presidential Commissioner to the Joint Chinese Venezuelan Fund; Current or Former Principal Board Member of Venezuela's National Electric Corporation (CORPOELEC); Former Executive Secretary of Venezuela's National Development Fund (FONDEN) (individual) [VENEZUELA]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

Dated: July 26, 2017.

**John E. Smith,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2017–16136 Filed 7–31–17; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0818]**

### Agency Information Collection Activity Under OMB Review: VA National Veterans Sports Programs and Special Event Surveys Data Collection

**AGENCY:** Office of Public & Intergovernmental Affairs, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of Public Affairs (OPA), 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 August 31, 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. 2900–0818'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0818'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Public Law 104–13; 44 U.S.C. 3501–3521.

*Titles:* VA National Veterans Sports Programs and Special Event Surveys.

*OMB Control Number:* 2900–0818.

*Type of Review:* Extension without change.

*Abstract:* The Department of Veterans Affairs (VA) administers National Rehabilitation Special Events for Veterans who are receiving care at VA medical facilities. Each event promotes the healing of body and spirit by motivating Veterans to reach their full potential, improve their independence, and achieve a healthier lifestyle and higher quality of life. Surveys are designed to allow program improvement and measure the tangible, quantifiable benefits of the events using event applications. Information collection is used for the planning, distribution and utilization of resources and to allocate clinical and administrative support to patient treatment services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 96 on May 19, 2017, page 23135.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 2,782 burden hours.

*Estimated Average Burden per Respondent:* 2.552 minutes.

(a) National Disabled Veterans Winter Sports Clinic, VA Form 10107 (2.5 min.)

(b) National Veterans Creative Arts Festival, VA Form 10108 (2.25 min.)

(c) National Veterans Golden Age Games, VA Form 10109 (2.5 min.)

(d) National Veterans Summer Sports Clinic, VA Form 10110 (2.25 min.)

(e) National Veterans TEE Tournament, VA Form 10111 (2.75 min.)

(f) National Veterans Wheelchair Games, VA Form 10112 (2.75 min.)

*Frequency of Response:* 28.75 (annual).

*Estimated Number of Respondents:* 2275.

By direction of the Secretary.

**Cynthia Harvey-Pryor,**

*Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.*

[FR Doc. 2017–16124 Filed 7–31–17; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of amendment to system of records—Department of Veterans Affairs Federal Docket Management System Commenter Information (VAFDMS—Commenter Info)—(140VA00REG).

**SUMMARY:** Pursuant to the provisions of the Privacy Act, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled, ''Department of Veterans Affairs Federal Docket Management System (VAFDMS—Commenter Info)—(140VA02REG)'' as set forth in the **Federal Register** on March 3, 2015. VA is amending the system name, clarifying storage location, and updating the address for notification and record access procedures. VA is republishing the system notice in its entirety.

**DATES:** Comments on the amendment of this system of records must be received no later than August 31, 2017. If no public comment is received, the new system will become effective August 31, 2017.

**ADDRESSES:** Written comments concerning the modified system of records may be submitted through *www.Regulations.gov*; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to the amendment of ''Department of Veterans Affairs Federal Docket Management System (VAFDMS)—(140VA00REG).'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free

telephone number.) In addition, comments may be viewed online at *www.Regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey M. Martin, Privacy Officer, Office of Regulation Policy and Management (00REG), Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–4902.

**SUPPLEMENTARY INFORMATION:** A Notice of Establishment of New System of Records was published in the **Federal Register** on February 9, 2007 (72 FR 6315), and amended on March 25, 2008 (73 FR 15856) and further amended on March 3, 2015 (80 FR 11525).

## I. Description of the System of Records

The Department of Veterans Affairs Federal Docket Management System (VAFDMS) serves as a central, electronic repository for VA rulemaking and non-rulemaking dockets including **Federal Register** rules, notices, supporting materials such as scientific and economic analyses, and public comments. The portion of VAFDMS information that comes under the Privacy Act is personal identifying information (name and contact address/email address). This information permits VA to identify individuals who have submitted comments in response to VA rulemaking documents or notices so that communications or other actions, as appropriate and necessary, can be effected, such as clarification of the comment, direct response to a comment, and other activities associated with the rulemaking or notice process. Identification is possible only if the individual voluntarily provides identifying information when submitting a comment. If such information is not furnished, the submitted comments and/or supporting documentation cannot be linked to an individual.

00REG's Management will review each incoming public submission and determine whether it is a public comment under the Administrative Procedure Act (APA) or a non-comment (which may include comments relating only to personal issues outside the scope of the rulemaking, comments from VA employees in accordance with the guidance below, and comments that were received by VA after the due date stated in the proposed rule (late comments).

The Office of Regulation Policy and Management's longstanding policy provides in part that it will not consider comments from VA employees as public comments unless they were submitted on their off-duty time in a private (vs employment) capacity. Thus, comments that include a VA email and/or mailing address as part of the contact information are not treated as public comments. In addition, comments that indicate that they are made in a VA employee's official capacity are not treated as public comments. Even though these comments will not be treated as public comments, they will be provided to the VA program office for consideration.

On the other hand, a comment from a VA employee that does not purport to be a comment given in an official VA capacity or to provide an official VA view, and that does not give a VA email or mailing address as part of the contact information, will be treated as a public comment, although it provides factual information relating to the commenter's VA employment.

VAFDMS permits members of the public to search posted public comments received by name of the individual submitting the comment on the *www.Regulations.gov* Web site. All the contents of posted comments are searchable. Unless the individual submits the comment anonymously, a name search will result in the comment being displayed for view. If the comment is submitted electronically using *www.Regulations.gov*, the viewed comment will not include the name of the submitter or any other identifying information about the individual except the information that the submitter has opted to include as part of his or her general comment. If a comment is submitted in writing, the information scanned and uploaded into VAFDMS will contain the submitter's name, unless the individual submits the comment anonymously. All comments received will become a matter of public record and will be posted without change to *www.regulations.gov* including any personal information provided. Comments submitted on behalf of organizations in writing that have to be scanned and uploaded into VAFDMS will not be redacted.

## II. Amendments to System Name

VA is renaming the system of records to reflect the categories of individuals on whom information is maintained. Thus ''Department of Veterans Affairs Federal Docket Management System (VAFDMS)—(140VA02REG)'' is renamed as, ''Department of Veterans Affairs Federal Docket Management System Commenter Information (VAFDMS—Commenter Info)—(140VA00REG)''.

## III. Amendment to Storage

VA is providing greater detail as to where records are stored.

## IV. Update to the Address for Notification and Record Access Procedures

VA is correcting the mailbox for the office in the address for notification and record access procedures from 02REG to 00REG.

The notice of intent to publish an advance copy of the system notice has been sent to the appropriate Congressional Committees and to the Director of the Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) (Privacy Act), as amended, and guidelines issued by OMB published at 65 FR 77677 on December 12, 2000.

*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 June 23, 2017 for publication.

Dated: July 26, 2017.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy Information and Identity Protection, Department of Veterans Affairs.*

**140VA00REG**

**SYSTEM NAME:**

Department of Veterans Affairs Federal Docket Management System Commenter Information (VAFDMS—Commenter Info).

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary location: Electronic records are kept at the U.S. Environmental Protection Agency, Research Triangle Park, NC 27711–0001. Secondary location: Duplicate electronic records are kept at Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

**SYSTEM MANAGER(S) AND ADDRESSES:**

Jeffrey M. Martin, Privacy Officer, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; telephone (202) 461–4902.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 3501, Note; Sec. 206(d), Public Law 107–347; 5 U.S.C. 301, 552, 552a, and 553.

**PURPOSE:**

To permit the Department of Veterans Affairs (VA) to identify individuals who have submitted comments in response to VA rulemaking documents or notices, so that communications or other actions, as appropriate and necessary, can be effected, such as to seek clarification of the comment, to directly respond to a comment, and for other activities associated with the rulemaking or notice process.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who voluntarily provide personal contact information when submitting a public comment and/or supporting materials in response to a Department of Veterans Affairs rulemaking document or notice.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Full name, postal address, email address, phone and fax numbers of the individual submitting comments, the name of the organization or individual that the individual represents (if any), and the comments, as well as other supporting documentation, furnished by the individual. Comments may include personal information about the commenter.

**RECORD SOURCE CATEGORIES:**

Individuals; public or private organizations.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PUROSES OF SUCH USES:**

1. *Congress:* VA may disclose information from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

VA must be able to provide information about individuals to adequately respond to inquiries from Members of Congress at the request of constituents who have sought their assistance.

2. *Data breach response and remedial efforts:* VA may, on its own initiative, disclose information from this system to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724.

a. *Effective Response.* A federal agency's ability to respond quickly and effectively in the event of a breach of federal data is critical to its efforts to prevent or minimize any consequent harm. An effective response necessitates disclosure of information regarding the breach to those individuals affected by it, as well as to persons and entities in a position to cooperate, either by assisting in notification to affected individuals or playing a role in preventing or minimizing harms from the breach.

b. *Disclosure of Information.* Often, the information to be disclosed to such persons and entities is maintained by federal agencies and is subject to the Privacy Act (5 U.S.C. 552a). The Privacy Act prohibits the disclosure of any record in a system of records by any means of communication to any person or agency absent the written consent of the subject individual, unless the disclosure falls within one of twelve statutory exceptions. In order to ensure an agency is in the best position to respond in a timely and effective manner, in accordance with 5 U.S.C. 552a(b)(3) of the Privacy Act, agencies should publish a routine use for appropriate systems specifically applying to the disclosure of information in connection with response and remedial efforts in the event of a data breach.

3. Data breach response and remedial efforts with another Federal agency VA may, on its own initiative, disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. *Law Enforcement:* VA may, on its own initiative, disclose information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

VA must be able to provide on its own initiative information that pertains to a violation of laws to law enforcement authorities in order for them to investigate and enforce those laws. Under 38 U.S.C. 5701(a) and (f), VA may disclose the names and addresses of veterans and their dependents to Federal entities with law enforcement responsibilities. This is distinct from the authority to disclose records in response to a qualifying request from a law enforcement entity, as authorized by Privacy Act subsection 5 U.S.C. 552a(b)(7).

5. *Litigation:* VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records

that is compatible with the purpose for which VA collected the records.

To determine whether to disclose records under this routine use, VA will comply with the guidance promulgated by the Office of Management and Budget in a May 24, 1985, memorandum entitled ''Privacy Act Guidance—Update,'' currently posted at *http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf.*

VA must be able to provide information to DoJ in litigation where the United States or any of its components is involved or has an interest. A determination would be made in each instance that under the circumstances involved, the purpose is compatible with the purpose for which VA collected the information. This routine use is distinct from the authority to disclose records in response to a court order under subsection (b)(11) of the Privacy Act, 5 U.S.C. 552(b)(11), or any other provision of subsection (b), in accordance with the court's analysis in *Doe* v. *DiGenova,* 779 F.2d 74, 78–85 (D.C. Cir. 1985) and *Doe* v. *Stephens,* 851 F.2d 1457, 1465–67 (D.C. Cir. 1988).

6. *Contractors:* VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement.

This routine use includes disclosures by an individual or entity performing services for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

This routine use, which also applies to agreements that do not qualify as contracts defined by Federal procurement laws and regulations, is consistent with OMB guidance in OMB Circular A–130, App. I, paragraph 5a(1)(b) that agencies promulgate routine uses to address disclosure of Privacy Act-protected information to contractors in order to perform the services contracts for the agency.

7. *Equal Employment Opportunity Commission (EEOC):* VA may disclose information from this system to the EEOC when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

VA must be able to provide information to EEOC to assist it in fulfilling its duties to protect employees' rights, as required by statute and regulation.

8. *Federal Labor Relations Authority (FLRA):* VA may disclose information from this system to the FLRA, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.

VA must be able to provide information to FLRA to comply with the statutory mandate under which it operates.

9. *Merit Systems Protection Board (MSPB):* VA may disclose information from this system to the MSPB, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

VA must be able to provide information to MSPB to assist it in fulfilling its duties as required by statute and regulation.

10. *National Archives and Records Administration (NARA) and General Services Administration (GSA):* VA may disclose information from this system to NARA and GSA in records management inspections conducted under title 44, U.S.C.

NARA is responsible for archiving old records which are no longer actively used but may be appropriate for preservation, and for the physical maintenance of the Federal government's records. VA must be able to provide the records to NARA in order to determine the proper disposition of such records.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained electronically. See System Location.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by various data elements and key word searches, among which are by: Name, Agency, Docket Type, Docket Sub-Type, Agency Docket ID, Docket Title, Docket Category, Document Type, CFR Part, Date Comment Received, and **Federal Register** Published Date.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records will be maintained and disposed of, in accordance with records disposition authority, approved by the Archivist of the United States.

**PHYSICAL, PROCEDURAL, AND ADMINISTRATIVE SAFEGUARDS:**

*Electronic records are maintained in a secure, password protected, electronic system that utilizes security hardware and software to include:* multiple firewalls, active intruder detection, and role-based access controls. Access to electronic records is limited to those officials who require the records to perform their official duties consistent with the purpose for which the information was collected. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access or contest the contents of records, about themselves, contained in this System of Records should address a written request, including full name, address and telephone number to the Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420.

**CONTESTING RECORD PROCEDURE:**

See Record Access Procedure above.

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this System of Records contains information about them should address written inquiries to the Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420. Requests should contain the full name, address and telephone number of the individual making the inquiry.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

There are no exemptions being claimed for this system.

**HISTORY:**

A Notice of Establishment of New System of Records was published in the **Federal Register** on February 9, 2007 (72 FR 6315), and amended on March 25, 2008 (73 FR 15856) and further

amended on March 3, 2015 (80 FR 11525).

[FR Doc. 2017–16083 Filed 7–31–17; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0209]**

### Agency Information Collection Activity: Application for Work Study Allowance; Student Work-Study Agreement (Advance Payment); Extended Student Work-Study Agreement; Student Work-Study Agreement

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before October 2, 2017.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0209,'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor at (202) 461–5870.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

*Authority:* Section 3485 of title 38, United States Code, and section 21.4145 of title 38, Code of Federal Regulations necessitate these collections of information.

*Title:* Application for Work Study Allowance; Student Work-Study Agreement (Advance Payment); Extended Student Work-Study Agreement; Student Work-Study Agreement VA Forms 22–8691, 22–8692, 22–8692a, and 22–8692b.

*OMB Control Number:* 2900–0209.

*Type of Review:* Renewal of a currently approved collection.

*Abstract:* VA uses the information collected to determine the individual's eligibility for the work-study allowance, the number of hours the individual will work, the amount payable, whether the individual desires an advance payment, and whether the individual wants to extend the work-study contract.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 17,865 hours.

*Estimated Average Burden Per Respondent:* 15, 5 and 3 = (23) minutes.

*Frequency of Response:* Once.

*Estimated Number of Respondents:* 113,851.

By direction of the Secretary.

**Cynthia Harvey-Pryor,**

*Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2017–16123 Filed 7–31–17; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0770]**

### Agency Information Collection Activity Under OMB Review: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**AGENCY:** The Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the 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 August 31, 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. 2900–0770'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0770'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* Public Law 104–13; 44 U.S.C. 3501–3501.

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*OMB Control Number:* 2900–0770.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* The proposed information collection activity provides a means to 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.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does 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 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 nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to 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.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 83 on Tuesday, May 2, 2017, pages 20535 and 20536.

*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

*Estimated Annual Burden:* 214,167 hours.

*Customer Satisfaction Surveys:* 66,667.

*Focus Groups:* 30,000.

*Customer Comment Cards:* 5,000.

*Small Discussion Groups:* 2,500.

*Cognitive Laboratory Studies:* 30,000.

*Qualitative Customer Satisfaction Surveys:* 37,500.

*In-Person Observation Testing:* 5,000.

*Patient Surveys:* 37,500.

*Estimated Average Burden per Respondent:*

*Customer Satisfaction Surveys:* 40 minutes.

*Focus Groups:* 60 minutes.

*Customer Comment Cards:* 30 minutes.

*Small Discussion Groups:* 30 minutes.

*Cognitive Laboratory Studies:* 60 minutes.

*Qualitative Customer Satisfaction Surveys:* 30 minutes.

*In-Person Observation Testing:* 30 minutes.

*Patient Surveys:* 30 minutes.

*Frequency of Response:* Once.

*Estimated Number of Respondents:* 335,000.

*Customer Satisfaction Surveys:* 100,000.

*Focus Groups:* 30,000.

*Customer Comment Cards:* 10,000.

*Small Discussion Groups:* 5,000.

*Cognitive Laboratory Studies:* 30,000.

*Qualitative Customer Satisfaction Surveys:* 75,000.

*In-Person Observation Testing:* 10,000.

*Patient Surveys:* 75,000.

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. 2017–16122 Filed 7–31–17; 8:45 am]

BILLING CODE 8320–01–P

# FEDERAL REGISTER

Vol. 82 Tuesday,

No. 146 August 1, 2017


Part II

## The President

Proclamation 9629—National Korean War Veterans Armistice Day, 2017

Federal Register
Vol. 82, No. 146
Tuesday, August 1, 2017

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9629 of July 26, 2017**

## National Korean War Veterans Armistice Day, 2017

**By the President of the United States of America**

**A Proclamation**

On National Korean War Veterans Armistice Day, we honor the patriots who defended the Korean Peninsula against the spread of Communism in what became the first major conflict of the Cold War. We remember those who laid down their lives in defense of liberty, in a land far from home, and we vow to preserve their legacy.

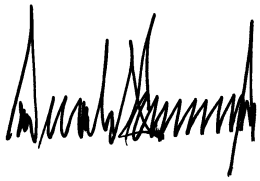
Situated between World War II and the Vietnam War, the Korean War has often been labeled as the ''Forgotten War,'' despite its having claimed the lives of more than 36,000 Americans. The Korean War began on June 25, 1950, when North Korean forces, backed by the Soviet Union, invaded South Korea. Shortly thereafter, American troops arrived and pushed back the North Koreans. For 3 years, alongside fifteen allies and partners, we fought an unrelenting war of attrition. Through diplomatic engagements led by President Eisenhower, Americans secured peace on the Korean Peninsula. On July 27, 1953, North Korea, China, and the United Nations signed an armistice suspending all hostilities.

While the armistice stopped the active fighting in the region, North Korea's ballistic and nuclear weapons programs continue to pose grave threats to the United States and our allies and partners. At this moment, more than 28,000 American troops maintain a strong allied presence along the 38th parallel, which separates North and South Korea. These troops, and the rest of our Armed Forces, help me fulfill my unwavering commitment as President to protecting Americans at home and to steadfastly defending our allies abroad.

As we reflect upon our values and pause to remember all those who fight and sacrifice to uphold them, we will never forget our Korean War veterans whose valiant efforts halted the spread of Communism and advanced the cause of freedom.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 27, 2017, as National Korean War Veterans Armistice Day. I call upon all Americans to observe this day with appropriate ceremonies and activities that honor and give thanks to our distinguished Korean War veterans.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of July, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–16327
Filed 7–31–17; 11:15 am]
Billing code 3295–F7–P

# Reader Aids

**Federal Register**

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**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

## FEDERAL REGISTER PAGES AND DATE, AUGUST

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## CFR PARTS AFFECTED DURING AUGUST

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.

## 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 30, 2017**

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## TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 2017

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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